THE NATIONAL ARCHIVES OF THE UNITED STATES

# FEDERAL REGISTER

VOLUME 17 NUMBER 155

Washington, Friday, August 8, 1952

## TITLE 3—THE PRESIDENT

### EXECUTIVE ORDER 10381

AMENDMENT OF EXECUTIVE ORDER NO. 9805,[1] PRESCRIBING REGULATIONS GOVERNING PAYMENT OF CERTAIN TRAVEL AND TRANSPORTATION EXPENSES

By virtue of the authority vested in me by the act of August 2, 1946, ch. 744, 60 Stat. 806, it is ordered that section 21 of Executive Order No. 9805 of November 25, 1946, prescribing regulations governing payment of travel and transportation expenses of civilian officers and employees of the United States when transferred from one official station to another for permanent duty, be, and it is hereby, amended to read as follows:

"SEC. 21. *Means of shipment.* Transportation services, including allowances specified in sections 18 and 19 hereof, may be procured by the agency concerned from any available common carrier: *Provided, however,* that an employee may elect to have his effects moved by some means other than the means selected by the Government on the condition that he shall pay the amount, if any, by which the charges for the means of transportation selected by him exceed the charges for the means of transportation selected by the Government."

HARRY S. TRUMAN

THE WHITE HOUSE,
*August 6, 1952.*

[F. R. Doc. 52-8863; Filed, Aug. 7, 1952; 10:13 a. m.]

## TITLE 7—AGRICULTURE

### Chapter III—Bureau of Entomology and Plant Quarantine, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—GYPSY MOTH AND BROWN-TAIL MOTH

MISCELLANEOUS AMENDMENTS

On July 1, 1952, there was published in the FEDERAL REGISTER (17 F. R. 5913) a notice of proposed rule making concerning amendments of §§ 301.45, 301.45–1 (e), 301.45–2, 301.45–3 (b), 301.45–4 (c), 301.45–5, 301.45–7, and 301.45–8 of Notice of Gypsy Moth and Brown-Tail Moth Quarantine No. 45 and regulations supplemental thereto (7 CFR 301.45 et seq.). After due consideration of relevant matters presented, and pursuant to section 8 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161), the Secretary of Agriculture hereby amends said §§ 301.45, 301.45–1 (e), 301.45–2, 301.45–3 (b), 301.45–4 (c), 301.45–5, 301.45–7, and 301.45–8 to read, respectively, as follows:

§ 301.45 *Notice of quarantine.* Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and having held the public hearing required thereunder, the Secretary of Agriculture quarantines the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, and under authority contained in the aforesaid Plant Quarantine Act and the Insect Pest Act of March 3, 1905, the Secretary of Agriculture prescribes regulations to prevent further spread of the gypsy moth (Porthetria dispar L.) and the brown-tail moth (Nygmia phaeorrhoea Donov.), injurious insects of foreign origin not widely distributed within and throughout the United States. Hereafter the following articles shall not be transported by any person, firm, or corporation from any quarantined State into or through any other State or Territory or District of the United States, under conditions other than those prescribed herein or in the regulations supplemental hereto, viz: (a) Live gypsy moths or brown-tail moths in any stage of development; (b) timber and timber products; (c) plants having persistent woody stems and parts thereof, including Christmas trees; (d) stone and quarry products; and (e) any other commodities or articles when found on inspection to be infested with the aforesaid insects in any of their stages: *Provided,* That the restrictions of this quarantine and of the regulations supplemental hereto may be limited to such areas, within the quarantined

(Continued on p. 7207)

[1] 11 F. R. 13823; 3 CFR 1946 Supp.

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### THE PRESIDENT



### EXECUTIVE AGENCIES

FEDERAL REGISTER

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## CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.



States, as are now or may hereafter be designated by the Secretary of Agriculture as regulated areas, adequate, in his judgment, to prevent the spread of the gypsy and brown-tail moths, except that any such limitation shall be conditioned upon the affected State or States providing for and enforcing the control of the intrastate movement of the regulated articles under the conditions which apply to their interstate movement under provisions of the Federal quarantine regulations, currently existing, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the intrastate spread therefrom of the said insect infestations: *And provided further*, That whenever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto apply, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation will be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

* * * * *

§ 301.45–1 *Definitions.* * * *

(e) *Suppressive area.* That part of the regulated area in which suppressive measures are cooperatively carried out with the objective of eradicating infestations.

* * * * *

§ 301.45–2 *Regulated area.* The following area is hereby designated as regulated:

*Connecticut.* Counties of Hartford, Middlesex, New London, Tolland and Windham; towns of Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris, New Hartford, Norfolk, North Canaan, Plymouth, Roxbury, Salisbury, Sharon, Thomaston, Torrington, Washington, Warren, Watertown, Winchester, Woodbury, in Litchfield County; towns of Ansonia, Beacon Falls, Bethany, Branford, Cheshire, Derby, East Haven, Guilford, Hamden, Madison, Meriden, Middlebury, Naugatuck, New Haven, North Branford, North Haven, Orange, Prospect, Seymour, Wallingford, Waterbury, West Haven, Wolcott, and Woodbridge, in New Haven County.

*Maine.* Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Avon, Berlin, Carthage, Chesterville, Crockertown, Dallas Plantation, Farmington, Freeman, Greenvale, Industry, Jay, Jerusalem, Kingfield, Madrid, Mount Abraham, New Sharon, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, and Wilton, and Townships D and E, in Franklin County; all of Hancock County except Plantations 3, 4, 35, and 41; all that part of Oxford County south and southeast of, and including, the towns of Magalloway and Richardsontown; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, Levant, Milford, Newburgh, Newport, Orono, Orrington, Plymouth, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in Penobscot County; towns of Abbott, Atkinson, Dover-Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangerville, and Wellington, in Piscataquis County; all that part of Somerset County south and southeast of, and including, Highland and Pleasant Ridge Plantations, town of Moscow, and Mayfield Plantation; towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in Washington County.

*Massachusetts.* The entire State.

*New Hampshire.* Counties of Belknap, Carroll, Cheshire, Grafton, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all that part of Coos County lying south of, and including the towns of Stratford, Odell, Dummer, and Cambridge.

*New York.* Counties of Rensselaer, Saratoga, Schenectady, and Washington; all of Albany County except the town of Rensselaerville; all of Columbia County except the towns of Clermont, Germantown, Greenport, and Livingston, and the city of Hudson; towns of Amenia, Northeast, and Pine Plains, in Dutchess County; towns of Chesterfield, Crown Point, Essex, Moriah, Ticonderoga, Westport, and Willsboro, in Essex County; towns of Broadalbin, Johnstown, Mayfield, Northampton, and Perth, and the cities of Gloversville and Johnstown, in Fulton County; towns of Coxsackie and New Baltimore, in Greene County; towns of Amsterdam, Florida, Glen, and Mohawk, and the city of Amsterdam, in Montgomery County; and the towns of Bolton, Caldwell, Hague, Luzerne, Queensbury, Stony Creek, Thurman, and Warrensburg, and the city of Glens Falls in Warren County.

*Rhode Island.* The entire State.

*Vermont.* Counties of Addison, Bennington, Orange, Rutland, Washington, Windham, and Windsor; towns of Barnet, Danville, Croton, Kirby, Peacham, Ryegate, St. Johnsbury, Waterford, in Caledonia County; towns of Bolton, Buels Gore, Charlotte, Colchester, Essex, Hinesburg, Huntington, Jericho, Richmond, St. George, Shelburne, South Burlington, and Williston, and the cities of Burlington and Winooski, in Chittenden County; towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in Essex County; and the town of Elmore, in Lamoille County.

There are included in the regulated area three classifications of area: The suppressive area, the generally infested area, and the brown-tail moth area. These areas are defined as follows:

(a) *The suppressive area:*

*Connecticut.* Towns of Bethlehem, Canaan, Cornwall, Goshen, Kent, Litchfield, Morris, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Washington, Warren, and Woodbury, in Litchfield County; towns of Ansonia, Beacon Falls, Bethany, Derby, East Haven, Hamden, Middlebury, Naugatuck, New Haven, Orange, Prospect, Seymour, West Haven, and Woodbridge, in New Haven County.

*Massachusetts.* County of Berkshire; and the town of Monroe, in Franklin County.

*New York.* Counties of Rensselaer, Saratoga, Schenectady, and Washington; all of Albany County except the town of Rensselaerville; all of Columbia County except the towns of Clermont, Germantown, Greenport, and Livingston, and the city of Hudson; towns of Amenia, Northeast, and Pine Plains, in Dutchess County; towns of Ches-

terfield, Crown Point, Essex, Moriah, Ticonderoga, Westport, and Willsboro, in Essex County; towns of Broadalbin, Johnstown, Mayfield, Northampton, and Perth, and the cities of Gloversville and Johnstown, in Fulton County; towns of Coxsackie and New Baltimore, in Greene County; towns of Amsterdam, Florida, Glen, and Mohawk, and the city of Amsterdam, in Montgomery County; and the towns of Bolton, Caldwell, Hague, Luzerne, Queensbury, Stony Creek, Thurman, and Warrensburg, and the city of Glens Falls, in Warren County.

*Vermont.* All of Addison County except the towns of Granville and Hancock; towns of Arlington, Bennington, Glastonbury, Pownal, Rupert, Sandgate, Shaftsbury, Stamford, Sunderland, and Woodford, in Bennington County; towns of Bolton, Buels Gore, Charlotte, Colchester, Essex, Hinesburg, Huntington, Jericho, Richmond, St. George, Shelburne, South Burlington, and Williston and the cities of Burlington and Winooski, in Chittenden County; towns of Benson, Brandon, Castleton, Fair Haven, Hubbardton, Ira, Middletown Springs, Pawlet, Pittsford, Poultney, Sudbury, Wells, West Haven, in Rutland County.

(b) *Generally infested area.* All of the regulated area, exclusive of the suppressive area, constitutes the generally infested area.

(c) *Brown-tail moth area.* The area under regulation on account of the brown-tail moth is the same as that classified as the generally infested area.

§ 301.45–3 *Articles under regulations.* * * *

(b) *Regulated movement.* The movement of the following articles is regulated in accordance with the regulations in this subpart:

(1) Timber and timber products, including lumber, planks, poles, logs, cordwood, pulpwood, and similar materials.

(2) Plants having persistent woody stems and parts thereof, including Christmas trees.

(3) Stone and quarry products.

(4) Any other articles when found on inspection to be infested with the gypsy or brown-tail moths.

§ 301.45–4 *Conditions governing the movement of regulated articles.* * * *

(c) *Contingent restrictions on movement between points within the suppressive area.* Whenever it is determined by the Chief of the Bureau of Entomology and Plant Quarantine that control or eradication of the gypsy moth in any section of the suppressive area is being hampered or jeopardized through movement of regulated articles into such section, the Chief of the Bureau may, after appropriate notice, require inspection and certification, as provided in § 301.45–5 (a), for any or all regulated articles moving into such designated section from other parts of the suppressive area.

* * * * *

§ 301.45–5 *Conditions governing the issuance of certificates and permits—* (a) *Certificates.* Certificates may be issued for the interstate movement of regulated articles under one or more of the following conditions: (1) When, in the judgment of the inspector, they have not been exposed to infestation; (2) when they have been inspected and found apparently free from infestation; (3) when they have been treated by approved methods under the observation of an inspector; and (4) when they have been grown, produced, manufactured, stored or handled in such a manner that, in the judgment of the inspector, no infestation could be transmitted thereby: *Provided,* That subsequent to certification, the regulated articles must be safeguarded against reinfestation as required by the inspector.

(b) *Limited permits.* Limited permits may be issued for the movement of noncertified, regulated articles to specified destinations for specified processing, handling, or utilization. Persons shipping, transporting or receiving such articles may be required to enter into written agreements to maintain such safeguards against the establishment and spread of infestation as may be required by the inspector.

(c) *Cancellation of certificates or limited permits.* Certificates or limited permits issued under these regulations may be withdrawn or canceled by the inspector and further certificates or limited permits refused whenever, in his judgment, the further use of such certificates or permits might result in the dissemination of infestation.

* * * * *

§ 301.45–7 *Assembly of regulated articles for inspection.* Persons intending to move interstate any of the articles covered by this subpart shall make application for certification as far in advance as possible and may be required to prepare and assemble materials at such points and times and in such manner as the inspector shall designate, so that thorough inspection may be made, or approved treatments applied. Articles to be inspected as a basis for certification must be in such condition as permits adequate inspection. The United States Department of Agriculture will not be responsible for any cost incident to inspection, treatment, or certification other than the services of the inspector and will be responsible for no injury incident thereto.

§ 301.45–8 *Marking.* Every regulated article or container of regulated articles intended for interstate movement shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a valid certificate or limited permit issued in compliance with this subpart: *Provided,* That for lot shipments one certificate or limited permit may be attached to one article or container of each shipment and another to the accompanying waybill, and for carlot freight or express shipments, either in containers or in bulk, a certificate or limited permit need be attached to the waybill only. For movement by road vehicle, a certificate or limited permit shall accompany the vehicle and, except when transportation is by common carrier, it shall be surrendered to consignee upon delivery of shipment.

These amendments shall be effective August 9, 1952.

The purpose of the amendment of § 301.45 is to rephrase and simplify the items that are subject to quarantine.

The amendment of § 301.45–2 adds to the regulated area in Connecticut the towns of Bethlehem, Roxbury, Washington, Watertown, and Woodbury, in Litchfield County, and the towns of Ansonia, Beacon Falls, Bethany, Cheshire, Derby, East Haven, Hamden, Middlebury, Naugatuck, New Haven, Orange, Prospect, Seymour, Wallingford, West Haven, and Woodbridge, in New Haven County. The amendment also adds to the suppressive area in Connecticut all of the above-mentioned towns with the exception of Watertown, in Litchfield County, and Cheshire and Wallingford, in New Haven County. The latter three towns are added to the generally infested area.

Section 301.45–3 (b) is also amended to conform with changes in the notice of quarantine, and §§ 301.45–1 (e), 301.45–4 (c), 301.45–5, 301.45–7, and 301.45–8 are rephrased in a number of minor respects in the interest of clarity and improved efficiency of quarantine operation.

Prompt action is necessary with respect to the newly regulated areas in order to control the movement therefrom of articles that might spread the gypsy and brown-tail moths. Other changes are of assistance to the public in interpreting the regulations. Therefore, good cause is found, in accordance with section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1003 (c)) for making the foregoing amendments effective less than 30 days after their publication in the FEDERAL REGISTER.

(Secs. 1, 3, 33 Stat. 1269, 1270, sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 141, 143, 161)

Done at Washington, D. C., this 4th day of August 1952.

[SEAL] C. J. McCORMICK,
*Acting Secretary of Agriculture.*

[F. R. Doc. 52–8730; Filed, Aug. 7, 1952; 8:48 a. m.]

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## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

### PART 992—IRISH POTATOES GROWN IN WASHINGTON

#### APPROVAL OF BUDGET OF EXPENSES AND FIXING RATE OF ASSESSMENT

Notice of proposed rule making regarding rules and regulations relative to a proposed budget and rate of assessment, to be made effective under Marketing Agreement No. 113 and Order No. 92 (7 CFR Part 992) regulating the handling of Irish potatoes grown in the State of Washington, was published in the FEDERAL REGISTER (17 F. R. 6127). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the rules and regulations set forth in the aforesaid notice, which rules and regulations were adopted and submitted for approval by the State of Washington Potato Committee (established pursuant to said marketing agreement and order), the following rules and regulations are hereby approved.

§ 992.204 *Budget of expenses and rate of assessment.* (a) The expenses necessary to be incurred by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 92, to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1953, will amount to $19,580.00;

(b) The rate of assessment to be paid by each handler who first ships potatoes shall be one-half of one cent ($0.005) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 113 and Order No. 92 (7 CFR Part 992).

(Sec. 5, 49 Stat. 753; as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 5th day of August 1952, to become effective 30 days after publication hereof in the FEDERAL REGISTER.

[SEAL] C. J. McCORMICK,
*Acting Secretary of Agriculture.*

[F. R. Doc. 52-8731; Filed, Aug. 7: 1952; 8:48 a. m.]

# TITLE 14—CIVIL AVIATION

## Chapter I—Civil Aeronautics Board

### Subchapter B—Economic Regulations

[Regs., Serial No. ER-175]

### PART 290—OPERATIONS PURSUANT TO EXEMPTION AUTHORITY

*Correction*

In Federal Register Document 52-8607, appearing at page 7137 of the issue for Wednesday, August 6, 1952, the bracketed serial number and the part headnote should read as set forth above.

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[Regs. Serial No. ER-172]

### PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

SPECIAL ECONOMIC REGULATION; TEMPORARY EXEMPTION OF AIR TAXI OPERATORS FROM LIMITATION ON SCOPE OF SERVICE

*Correction*

In F. R. Doc. 52-7928, appearing in the issue for Friday, July 18, 1952, on page 6577, the following change should be made:

In column 2, line 7, insert the word "served" between "routes" and "by".

# TITLE 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

[Docket 5741]

### PART 3—DIGEST OF CEASE AND DESIST ORDERS

NORLON CORP. ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages or connections—Producer status of dealer or seller—Manufacturer;* § 3.20 *Comparative data or merits;* § 3.170 *Qualities or properties of product or service;* § 3.195 *Safety.* In connection with the offering for sale, sale and distribution of the drug preparation "Sural," or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, etc., of said preparation, which advertisements represent, directly or by implication, (a) that the taking of said preparation will constitute an adequate, effective or reliable treatment for sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic condition; (b) that said preparation will arrest the progress or correct the underlying causes of, or will cure, sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic condition; (c) that said preparation will afford any relief of severe aches, pains, and discomforts of sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic conditions, or have any therapeutic effect upon any of the symptoms or manifestations of any such condition in excess of affording temporary relief of minor aches, pains, or fever; (d) that said preparation may safely be taken over prolonged periods of time; (e) that said preparation is superior to and causes less gastric irritation than other salicylates; or, (f) that respondents are the manufacturers of said preparation; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Norlon Corporation et al., New York, N. Y., Docket 5741, May 1, 1952]

*In the Matter of Norlon Corporation, a Corporation, and E. Edward Shinkel, Milton L. Marks, Ralph S. Marks, and John J. Anthony, Individually and as Officers of Said Corporation*

This proceeding was heard by Abner E. Lipscomb, hearing examiner, upon the complaint of the Commission, respondents' answer, and a stipulation entered into by counsel for respondents and counsel supporting the complaint, wherein it was stipulated and agreed that the entire transcript of all hearings held and to be held in Dolcin Corporation et al., Docket 5692, should become a part of the record in the proceeding to the same extent as if such transcript had been received in regular course of hearings in the matter, and that it might be adjudicated upon the basis of such transcript, supplemented by the stipulations between counsel contained in the record.

Thereafter the proceeding regularly came on for final consideration by said examiner on the complaint, the answer thereto, and the above mentioned transcript and stipulations, presentation of proposed findings as to the facts and conclusions having been waived by counsel, and said examiner, having duly considered the record in the matter, and having found that the proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts,[1] conclusion drawn therefrom [1] and order to cease and desist.

Thereafter, the Commission having extended the date on which said initial decision would have otherwise become the decision of the Commission, the matter was disposed of by the "Decision of the Commission and order to file report of compliance", Docket 5741, May 1, 1952, as follows:

Service of the initial decision of the hearing examiner in this proceeding having been completed on March 19, 1952, and the Commission having on April 17, 1952, extended until further order of the Commission the date on which the said initial decision would otherwise become the decision of the Commission; and

The Commission having duly considered the record herein and being of the opinion that said initial decision is adequate and appropriate to dispose of this proceeding:

*It is ordered,* That the initial decision of the hearing examiner, a copy of which is attached, shall, on the 1st day of May, 1952, become the decision of the Commission.

*It is further ordered,* That the respondents Norlon Corporation, Milton L. Marks, and Ralph S. Marks, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

The order to cease and desist in said initial decision, thus made the decision of the Commission, is as follows:

*It is ordered,* That respondents Norlon Corporation, a corporation, and Milton L. Marks and Ralph S. Marks, individually and as officers of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of the drug preparation "Sural," or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) That the taking of said preparation will constitute an adequate, effective or reliable treatment for sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(b) That said preparation will arrest the progress or correct the underlying causes of, or will cure, sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(c) That said preparation will afford any relief of severe aches, pains, and

[1] Filed as part of the original document.

discomforts of sciatica, neuritis, lumbago, bursitis, or any other kind of arthritic or rheumatic condition, or have any therapeutic effect upon any of the symptoms or manifestations of any such condition in excess of affording temporary relief of minor aches, pains, or fever;

(d) That said preparation may safely be taken over prolonged periods of time;

(e) That said preparation is superior to and causes less gastric irritation than other salicylates;

(f) That respondents are the manufacturers of said preparation.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

*It is further ordered*, That the complaint herein be, and the same hereby is, dismissed as to respondents E. Edward Shinkel and John J. Anthony, without prejudice to the right of the Commission to institute further proceedings against them, should future facts so warrant.

Issued: May 1, 1952.

By the Commission.

[SEAL] D. C. DANIEL,
*Secretary.*

[F. R. Doc. 52-8752; Filed, Aug. 7, 1952; 8:53 a. m.]

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[Docket 5786]

## PART 3—DIGEST OF CEASE AND DESIST ORDERS

### MICHIGAN CITY NOVELTY CO.

Subpart—*Using or selling lottery devices:* § 3.2475 *Devices for lottery selling.* Selling or distributing in commerce, push cards, punchboards, or other lottery devices which are to be used or may be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, E. F. Ploner t. a. Michigan City Novelty Company, Michigan City, Ind., Docket 5786, April 30, 1952]

*In the Matter of E. F. Ploner, Individually, and Trading as Michigan City Novelty Company*

This proceeding was heard by William L. Pack, hearing examiner, upon the complaint of the Commission, respondent's answer, and a substitute answer, filed pursuant to the granting of motion so to do, in which, tendered on condition that the initial decision of the examiner be deferred until final determination by the Commission of the proceeding in Superior Products, Docket 5561, respondent admitted all of the material allegations of fact in the complaint and waived the taking of testimony and other procedure, but reserved the right to appeal from any decision rendered in the matter by the examiner or the Commission.

Thereafter, the Commission having rendered its final decision on January 29, 1952, in said Superior Products case, the proceeding regularly came on for final consideration by said examiner, theretofore duly designated by the Commission, upon the complaint and substitute answer, all intervening procedure having been waived, and said examiner, having duly considered the matter, and having found that the proceeding was in the interest of the public, made his initial decision, comprising certain findings as to the facts,[1] conclusion drawn therefrom[1] and order to cease and desist.

No appeal having been filed from said initial decision of said trial examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on April 30, 1952.

The said order to cease and desist is as follows:

*It is ordered*, That the respondent, E. F. Ploner, individually and trading as Michigan City Novelty Company or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, push cards, punchboards, or other lottery devices which are to be used or may be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

By "Decision of the Commission and order to file report of compliance", Docket 5786, April 30, 1952, which announced and decreed fruition of said initial decision, and noted Commissioner Mason's concurrence in the findings as to the facts and conclusion, but not in the form of order to cease and desist, for the reason stated in his opinion concurring in part and dissenting in part in Worthmore Sales Co., Docket 5203, March 10, 1950, 46 F. T. C. 606, report of compliance with the said order was required as follows:

*It is ordered*, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Issued: April 30, 1952.

By the Commission.

[SEAL] D. C. DANIEL,
*Secretary.*

[F. R. Doc. 52-8742; Filed, Aug. 7, 1952; 8:49 a. m.]

[1] Filed as part of the original document.

# TITLE 22—FOREIGN RELATIONS

## Chapter I—Department of State

### Subchapter A—The Department

[Dept. Reg. 108.160]

## PART 99—INFORMATIONAL MEDIA GUARANTIES UNDER THE ECONOMIC COOPERATION ACT OF 1948, AS AMENDED

*Preamble.* In furtherance of the Mutual Security Act of 1951, as amended, in order to facilitate and maximize the use of private channels of trade, and pursuant to the authority contained in 111 (b) of the Economic Cooperation Act of 1948, as amended, supplemented and continued (herinafter called the "act"), the following rules and regulations are prescribed for the making of guaranties of investments in enterprises producing or distributing informational media (hereinafter called "Informational Media Guaranties").

A new Part 99 is added as follows:

Sec.
99.1 Scope of this part.
99.2 Application for guaranties and place of filing.
99.3 Fees for guaranties.
99.4 Designation of Export-Import Bank of Washington as agent.
99.5 Saving clause.

AUTHORITY: §§ 99.1 to 99.5 issued under sec. 104, 62 Stat. 138, as amended; 22 U. S. C. Sup. 1503. Interpret or apply sec. 111, 62 Stat. 143, as amended; 22 U. S. C. Sup. 1509, E. O. 10300, Nov. 1, 1951, 16 F. R. 11203; 3 CFR, 1951 Supp., E. O. 10368, June 30, 1952, 17 F. R. 5929.

§ 99.1 *Scope of this part.* This part shall cover Informational Media Guaranties.

§ 99.2 *Applications for guaranties and place of filing.* Applications for Informational Media Guaranties should be made in writing to the Informational Media Guaranty Section, Department of State, 2 Park Avenue, New York, New York. There is no prescribed form of application, but published information on current policies of the informational media guaranty program, including the contents of applications, may be obtained on request from the Department of State at the address indicated. Each applicant will be notified in writing when his application has been found to be complete and is accepted for processing.

§ 99.3 *Fees for guaranties.* The recipient of a guaranty shall pay to the Department of State or its duly authorized representative, annually in advance, a fee of 1 percent per annum of the face amount of such guaranty, unless unusual circumstances are found by the Department of State to exist with respect to any guaranteed investment, rendering it desirable, in furtherance of the purpose of the act, to charge a smaller fee.

§ 99.4 *Designation of Export-Import Bank of Washington as agent.* Export-Import Bank of Washington is hereby designated by the Department of State as its agent, upon such terms as specified by the Department, to issue in its name and administer Informational Media Guaranties.

§ 99.5 *Saving clause.* The Department of State may waive, withdraw or amend at any time or from time to time any or all of the provisions of this part.

Date of issuance: July 31, 1952.

DAN LACY,
*Acting Assistant Administrator for the Information Center Service, International Information Administration.*

[F. R. Doc. 52-8726; Filed, Aug. 7, 1952; 8:46 a. m.]

# TITLE 26—INTERNAL REVENUE

## Chapter I—Bureau of Internal Revenue, Department of the Treasury

### Subchapter A—Income and Excess Profits Taxes

[Regs. 111; T. D. 5924]

### PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

MISCELLANEOUS AMENDMENTS

On January 3, 1952, notice of proposed rule making was published in the FEDERAL REGISTER (17 F. R. 78), in order to conform Regulations 111 (26 CFR Part 29) to certain provisions of Parts I and III of Title III of the Revenue Act of 1950, approved September 23, 1950, to section 11 of the Internal Security Act of 1950, enacted September 23, 1950, and to section 601 of the Revenue Act of 1951, approved October 20, 1951. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments to Regulations 111 set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding § 29.23 (o)–1 the following:

SEC. 11. DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS (INTERNAL SECURITY ACT OF 1950, ENACTED SEPTEMBER 23, 1950).

(a) Notwithstanding any other provision of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board [the Subversive Activities Control Board] requiring such organization to register under section 7.

* * * * *

SEC. 332. TECHNICAL AMENDMENTS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

(a) *Amendment of section 23 (o).* Section 23 (o) (2) is hereby amended by striking out "legislation;" and inserting in lieu thereof the following: "legislation. For disallowance of certain charitable, etc., deductions otherwise allowable under this paragraph, see sections 3813 and 162 (g) (2);".

* * * * *

PAR. 2. Section 29.23 (o)–1, as amended by Treasury Decision 5893, approved April 4, 1952, is further amended by inserting immediately preceding the last sentence of the first paragraph thereof the following: "For disallowance of certain charitable deductions otherwise allowable under section 23 (o) (2), see sections 3813 and 162 (g) (2) and the regulations promulgated pursuant thereto. For certain provisions with respect to gifts made before January 1, 1951, see § 29.101–3 (a)."

PAR. 3. There is inserted immediately preceding § 29.23 (q)–1 the following:

SEC. 11. DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS (INTERNAL SECURITY ACT OF 1950, ENACTED SEPTEMBER 23, 1950).

(a) Notwithstanding any other provision of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board (the Subversive Activities Control Board) requiring such organization to register under section 7.

* * * * *

SEC. 332. TECHNICAL AMENDMENTS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(b) *Amendment of section 23 (q).* Section 23 (q) (2) is hereby amended by striking out "legislation; or" and inserting in lieu thereof the following: "legislation. For disallowance of certain charitable, etc., deductions otherwise allowable under this paragraph, see sections 3813 and 162 (g) (2); or".

* * * * *

PAR. 4. Section 29.23 (q)–1, as amended by Treasury Decision 5796, approved July 19, 1950, is further amended by inserting immediately after the last sentence of the first paragraph thereof the following: "For disallowance of certain charitable, etc., deductions otherwise allowable under section 23 (q) (2), see sections 3813 and 162 (g) (2) and the regulations promulgated pursuant thereto. For certain provisions with respect to gifts made before January 1, 1951, see § 29.101–3 (a)."

PAR. 5. There is inserted immediately preceding § 29.101–1 the following:

SEC. 11. DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS (INTERNAL SECURITY ACT OF 1950, ENACTED SEPTEMBER 23, 1950).

* * * * *

(b) No organization shall be entitled to exemption from Federal income tax, under section 101 of the Internal Revenue Code, for any taxable year if at any time during such taxable year (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board (the Subversive Activities Control Board) requiring such organization to register under section 7.

SEC. 301. INCOME OF EDUCATIONAL, CHARITABLE, AND CERTAIN OTHER EXEMPT ORGANIZATIONS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(b) *Feeder organizations.* Section 101 is hereby amended by adding at the end thereof the following paragraph:

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any paragraph of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this paragraph the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

(c) *Technical amendments.* (1) Section 101 is hereby amended (A) by striking out "The following organizations shall be exempt" and inserting in lieu thereof "Except as provided in supplement U, the following organizations shall be exempt", and (B) by adding at the end of such section (following the paragraph added by subsection (b) of this section) the following paragraph:

Notwithstanding supplement U, an organization described in this section (other than in the preceding paragraph) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

* * * * *

SEC. 303. EFFECTIVE DATE OF PART I (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

The amendments made by this part [sections 301, 302, and 303 of the Revenue Act of 1950] shall be applicable only with respect to taxable years beginning after December 31, 1950. The determination as to whether an organization is exempt under section 101 of the Internal Revenue Code from taxation for any taxable year beginning before January 1, 1951, shall be made as if section 301 (b) of this Act had not been enacted and without inferences drawn from the fact that the amendment made by such section is not expressly made applicable with respect to taxable years beginning before January 1, 1951.

PAR. 6. There is inserted immediately after § 29.101–2 the following:

§ 29.101–3 *Limitations on exemption*—(a) *In general.* Under section 11 (b) of the Internal Security Act of 1950, no organization is entitled to exemption under section 101 for any taxable year if at any time during such year such organization is registered under section 7 of such act or if there is in effect a final order of the Subversive Activities Control Board established by section 12 of such act requiring such organization to register under section 7 of such act. Under sections 3813 and 3814 of the Internal Revenue Code, certain organizations described in section 101 (6) may be denied exemption under section 101 (6) for taxable years beginning after December 31, 1950. See §§ 29.3813–1 and 29.3814–1. Section 302 of the Revenue Act of 1950, as amended by section 601 of the Revenue Act of 1951, prescribes the following rules respecting exemption of certain organizations for taxable years beginning prior to January 1, 1951:

(a) *Trade or business not unrelated.* For any taxable year beginning prior to January 1, 1951, no organization shall be denied exemption under paragraph (1), (6), or (7) of section 101 of the Internal Revenue Code on the grounds that it is carrying on a trade or business for profit if the income from such trade or business would not be taxable as unrelated business income under the provisions of Supplement U of the Internal Revenue Code, as amended by this Act, or if such trade or business is the rental by such organization of its real property (including personal property leased with the real property).

(b) *Period of limitations.* In the case of an organization which would otherwise be exempt under section 101 of the Internal Revenue Code were it not carrying on a trade or business for profit, the filing of the information return required by section 54 (f) of the Internal Revenue Code (relating to returns by tax-exempt organizations) for any taxable year beginning prior to January 1, 1951, shall be deemed to be the filing of a return for the purposes of section 275 of the Internal Revenue Code (relating to period of limitation upon assessment and collection). In the case of such an organization which was, by the provisions of section 54 (f) of the Internal Revenue Code, specifically not required to file such information return, for the purposes of the preceding sentence a return shall be deemed to have been filed

at the time when such return should have been filed had it been so required. The provisions of this subsection shall not apply to a taxable year of such an organization with respect to which, prior to September 20, 1950, (1) any amount of tax was assessed or paid, or (2) a notice of deficiency under section 272 of the Internal Revenue Code was sent to the taxpayer.

(c) *Denial of deductions.* A gift or bequest to an organization prior to January 1, 1951, for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals) otherwise allowable as a deduction under section 23 (o) (2), 23 (q) (2), 162 (a), 505 (a) (2), * * * of the Internal Revenue Code, may not be denied under such sections if a denial of exemption to such organization for the taxable year of the organization in which such gift or bequest was made is prevented by the provisions of subsections (a) or (b) of this section.

(d) *Profits inuring to the benefit of certain educational organizations or hospitals.* For any taxable year beginning prior to January 1, 1951, an organization operated for the primary purpose of carrying on a trade or business for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual and all of the net earnings of which inure to the benefit of an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on, or to the benefit of a hospital, or an institution for the rehabilitation of physically handicapped persons, which maintains or is building for proper maintenance a hospital or institution staffed or to be staffed by qualified professional persons for the treatment of the sick and/or the rehabilitation of the physically handicapped, shall not be denied exemption from taxation under section 101 of the Internal Revenue Code on the ground that it is carrying on a trade or business for profit. The determination as to whether an organization other than one described in this subsection is exempt under section 101 of the Internal Revenue Code from taxation for any taxable year beginning before January 1, 1951, shall be made as if this subsection and section 301 (b) [adding the last two sentences to section 101, relating to feeder organizations] of this Act had not been enacted and without inferences drawn from the fact that this subsection and the amendment made by section 301 (b) are not expressly made applicable with respect to taxable years beginning before January 1, 1951.

(b) *Feeder organizations.* In the case of an organization operated for the primary purpose of carrying on a trade or business for profit, exemption is not allowed under any paragraph of section 101 on the ground that all the profits of such organization are payable to one or more organizations exempt from taxation under section 101. For the purpose of this section, the term "trade or business" does not include the rental by an organization of its real property (including personal property leased with the real property). In determining the primary purpose of an organization, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of those activities of such organization which are specified in the applicable paragraph of section 101. If a subsidiary organization of a tax-exempt organization would itself be exempt on the ground that its activities are an integral part of the exempt activities of the parent organization, its exemption will not be lost because, as a matter of accounting between the two organizations, the subsidiary derives a profit from its dealings with its parent organization, for example, a subsidiary organization which is operated for the sole purpose of furnishing electric power used by its parent organization, a tax-exempt educational organization, in carrying on its educational activities. However, the subsidiary organization is not exempt from tax if it is operated for the primary purpose of carrying on a trade or business which would be an unrelated trade or business (that is, unrelated to exempt activities) if regularly carried on by the parent organization. For example, if a subsidiary organization is operated primarily for the purpose of furnishing electric power to consumers other than its parent organization (and the parent's tax-exempt subsidiary organizations), it is not exempt since such business would be an unrelated trade or business if regularly carried on by the parent organization. Similarly, if the subsidiary is owned by several unrelated exempt organizations, and is operated for the purpose of furnishing electric power to each of them, it is not exempt since such business would be an unrelated trade or business if regularly carried on by any one of the tax-exempt organizations.

In certain cases an organization which carries on a trade or business for profit but is not operated for the primary purpose of carrying on such trade or business is subject to tax under Supplement U of chapter 1 of the Internal Revenue Code (which Supplement begins with section 421) on its unrelated business net income.

PAR. 7. Immediately preceding each of §§ 29.101 (1)–1 to 29.101 (5)–1, inclusive, each of §§ 29.101 (7)–1 to 29.101 (13)–1, inclusive, § 29.101 (18)–1, and immediately after section 101 (19) (which section is set forth immediately after § 29.101 (18)–1, there is inserted the following:

SEC. 301. INCOME OF EDUCATIONAL, CHARITABLE, AND CERTAIN OTHER EXEMPT ORGANIZATIONS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(b) *Feeder organizations.* Section 101 is hereby amended by adding at the end thereof the following paragraph:

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any paragraph of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this paragraph the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

(c) *Technical amendments.* (1) Section 101 is hereby amended (A) by striking out "The following organizations shall be exempt" and inserting in lieu thereof "Except as provided in supplement U, the following organizations shall be exempt", and (B) by adding at the end of such section (following the paragraph added by subsection (b) of this section) the following paragraph:

Notwithstanding supplement U, an organization described in this section (other than in the preceding paragraph) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

* * * * *

SEC. 303. EFFECTIVE DATE OF PART I (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

The amendments made by this part (sections 301, 302, and 303 of the Revenue Act of 1950) shall be applicable only with respect to taxable years beginning after December 31, 1950. The determination as to whether an organization is exempt under section 101 of the Internal Revenue Code from taxation for any taxable year beginning before January 1, 1951, shall be made as if section 301 (b) of this Act had not been enacted and without inferences drawn from the fact that the amendment made by such section is not expressly made applicable with respect to taxable years beginning before January 1, 1951.

PAR. 8. There is inserted immediately preceding § 29.101 (6)–1 the following:

SEC. 301. INCOME OF EDUCATIONAL, CHARITABLE, AND CERTAIN OTHER EXEMPT ORGANIZATIONS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(b) *Feeder organizations.* Section 101 is hereby amended by adding at the end thereof the following paragraph:

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any paragraph of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this paragraph the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

(c) *Technical amendments.* (1) Section 101 is hereby amended (A) by striking out "The following organizations shall be exempt" and inserting in lieu thereof "Except as provided in supplement U, the following organizations shall be exempt", and (B) by adding at the end of such section (following the paragraph added by subsection (b) of this section) the following paragraph:

Notwithstanding supplement U, an organization described in this section (other than in the preceding paragraph) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

* * * * *

SEC. 303. EFFECTIVE DATE OF PART I (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

The amendments made by this part (sections 301, 302, and 303 of the Revenue Act of 1950) shall be applicable only with respect to taxable years beginning after December 31, 1950. The determination as to whether an organization is exempt under section 101 of the Internal Revenue Code from taxation for any taxable year beginning before January 1, 1951, shall be made as if section 301 (b) of this Act had not been enacted and without inferences drawn from the fact that the amendment made by such section is not expressly made applicable with respect to taxable years beginning before January 1, 1951.

SEC. 332. TECHNICAL AMENDMENTS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(c) *Amendment of section 101 (6).* Section 101 (6) is hereby amended by striking

out "legislation;" and inserting in lieu thereof the following: "legislation. For loss of exemption under certain circumstances, see sections 3813 and 3814;".

* * * * *

PAR. 9. Section 29.101 (6)–1 is amended by adding at the end thereof the following undesignated paragraph:

Sections 3813 and 3814 set forth rules under which certain organizations described in section 101 (6) may be denied exemption. See § 29.3813–1 and § 29.3814–1.

PAR. 10. There is inserted immediately preceding § 29.162–1 the following:

SEC. 11. DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS (INTERNAL SECURITY ACT OF 1950, ENACTED SEPTEMBER 23, 1950).

(a) Notwithstanding any other provision of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board [the Subversive Activities Control Board] requiring such organization to register under section 7.

* * * * *

PAR. 11. Section 29.275–1, as amended by Treasury Decision 5516, approved May 27, 1946, is further amended by adding at the end thereof the following undesignated paragraph:

For special provisions with respect to taxable years beginning prior to January 1, 1951, in the case of an organization which would be exempt from tax under section 101 were it not carrying on a trade or business for profit, see section 302 (b) of the Revenue Act of 1950, set forth in § 29.101–3 (a).

PAR. 12. There is inserted immediately preceding § 29.505–1 the following:

SEC. 11. DENIAL OF TAX DEDUCTIONS AND EXEMPTIONS (INTERNAL SECURITY ACT OF 1950, ENACTED SEPTEMBER 23, 1950).

(a) Notwithstanding any other provision of law, no deduction for Federal income-tax purposes shall be allowed in the case of a contribution to or for the use of any organization if at the time of the making of such contribution (1) such organization is registered under section 7, or (2) there is in effect a final order of the Board [the Subversive Activities Control Board] requiring such organization to register under section 7.

* * * * *

SEC. 332. TECHNICAL AMENDMENTS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(d) *Amendment of section 505 (a).* Section 505 (a) (2) is hereby amended by adding at the end thereof the following: "For disallowance of certain charitable, etc., deductions otherwise allowable under this paragraph, see sections 3813 and 162 (g) (2)."

* * * * *

PAR. 13. There is inserted immediately preceding Subpart H of Regulations 111 (26 CFR 29.6000) the following:

SEC. 331. EXEMPTION OF CERTAIN ORGANIZATIONS UNDER SECTION 101 (6) AND DEDUCTIBILITY OF CONTRIBUTIONS MADE TO SUCH ORGANIZATIONS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

Chapter 38 is hereby amended by inserting at the end thereof the following new sections:

SEC. 3813. REQUIREMENTS FOR EXEMPTION OF CERTAIN ORGANIZATIONS UNDER SECTION 101 (6) AND FOR DEDUCTIBILITY OF CONTRIBUTIONS MADE TO SUCH ORGANIZATIONS.

(a) *Organizations to which section applies.* This section shall apply to any organization described in section 101 (6) except—

(1) A religious organization (other than a trust);

(2) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(3) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 101 (6)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public;

(4) An organization which is operated, supervised, controlled, or principally supported by a religious organization (other than a trust) which is itself not subject to the provisions of this section; and

(5) An organization the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical research.

(b) *Prohibited transactions.* For the purposes of this section, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this section—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 24 (b) (2) (D)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 per centum or more of the total combined voting power of all classes of stock entitled to vote or 50 per centum or more of the total value of shares of all classes of stock of the corporation.

(c) *Denial of exemption to organizations engaged in prohibited transactions*—(1) *General rule.* No organization subject to the provisions of this section which has engaged in a prohibited transaction after July 1, 1950, shall be exempt from taxation under section 101 (6).

(2) *Taxable years affected.* An organization shall be denied exemption from taxation under section 101 (6) by reason of paragraph (1) only for taxable years subsequent to the taxable year during which it is notified by the Secretary that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

(d) *Future status of organization denied exemption.* Any organization denied exemption under section 101 (6) by reason of the provisions of subsection (c), with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary, file claim for exemption, and if the Secretary, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years subsequent to the year in which such claim is filed.

(e) *Disallowance of certain charitable, etc., deductions.* No gift or bequest for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), otherwise allowable as a deduction under section 23 (o) (2), 23 (q) (2), 162 (a), 505 (a) (2), * * * shall be allowed as a deduction if made to an organization which, in the taxable year of the organization in which the gift or bequest is made, is not exempt under section 101 (6) by reason of the provisions of this section. With respect to any taxable year of the organization for which the organization is not exempt pursuant to the provisions of subsection (c) by reason of having engaged in a prohibited transaction with the purpose of diverting the corpus or income of such organization from its exempt purposes and such transaction involved a substantial part of such corpus or income, and which taxable year is the same, or prior to the, taxable year of the organization in which such transaction occurred, such deduction shall be disallowed the donor only if such donor or (if such donor is an individual) any member of his family (as defined in section 24 (b) (2) (D)) was a party to such prohibited transaction.

(f) *Definition.* For the purposes of this section, the term "gift or bequest" means any gift, contribution, bequest, devise, legacy, or transfer.

* * * * *

SEC. 333. EFFECTIVE DATES (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

Subsections (c) and (d) of section 3813 * * * of the Internal Revenue Code, added by section 331 of this Act, shall apply with respect to taxable years beginning after December 31, 1950, and subsection (e) of section 3813 of the Internal Revenue Code shall apply only with respect to gifts or bequests (as defined in section 3813 of the Internal Revenue Code) made on or after January 1, 1951.

§ 29.3813–1 *Denial of exemption to organizations engaged in prohibited transactions.* (a) The prohibited transactions enumerated in section 3813 (b) are in addition to and not in limitation of the restrictions contained in section 101 (6). Even though an organization has not engaged in any of the prohibited transactions referred to in section 3813 (b), it still may not qualify for tax exemption in view of the general provisions of section 101 (6). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator of such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purposes.

(b) An organization described in section 101 (6), other than an organization excepted by section 3813 (a), which has engaged in any prohibited transaction (as described in section 3813 (b)) after July 1, 1950, shall not be exempt from taxation under section 101 (6) for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Commissioner that it has engaged in such prohibited transaction. Such notification by the Commissioner shall be by registered mail to the last known address of the organization. However, notwithstanding the requirement of notification by the Commissioner, exemption shall be denied with respect to any taxable year beginning after December 31, 1950, if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from its exempt purposes and such transaction involved a substantial part of the income or corpus of such organization. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

*Example (1).* A creates a foundation in 1949 ostensibly for educational purposes. B, as trustee, accumulates the foundation's income from 1952 until 1955 and then uses a substantial part of this accumulated income to send A's children to college. The foundation would lose its exemption for the taxable years 1952 through 1955 and for subsequent taxable years until it regains its exempt status.

*Example (2).* If under the facts in example (1) such private benefit was the purpose of the foundation from its inception, such foundation is not exempt by reason of the general provisions of section 101 (6) and without regard to the provisions of section 3813 for all years since its inception, that is, for the taxable years 1949 through 1955 and subsequent taxable years, since under section 101 (6) the organization must be organized and operated exclusively for exempt purposes. (See § 29.101 (6)–1. See also § 29.3814–1 for loss of exemption in the case of certain organizations accumulating income.)

§ 29.3813–2 *Future status of organization denied exemption.* (a) Any organization denied exemption under section 101 (6) by reason of the provisions of section 3813 (c) may file, in any taxable year following the taxable year in which notice of denial of exemption was issued, a claim for exemption with the collector for the district in which is located the principal place of business or principal office of the organization. Form 1023, the exemption application, a copy of which may be obtained from any collector, shall be used for this purpose. The claim must contain or have attached to it, in addition to the information generally required of an organization claiming exemption under section 101 (6), an affidavit, by a principal officer of such organization authorized to make such affidavit, that the organization will not knowingly again engage in a prohibited transaction. See § 29.101–2 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction and that the organization also satisfies all other requirements under section 101 (6), he shall so notify the organization in writing. In such case the organization will be exempt (subject to the provisions of sections 101 (6), 3813 and 3814) with respect to the taxable years subsequent to the taxable year in which such claim is filed. Section 3813 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

§ 29.3813–3 *Disallowance of certain charitable, etc., deductions.* (a) No gift or contribution made on or after January 1, 1951, which would otherwise be allowable as a charitable or other deduction under section 23 (o) (2), 23 (q) (2), 162 (a), or 505 (a) (2), shall be allowed as a deduction if made to an organization which at the time the gift or contribution is made is not exempt under section 101 (6) by reason of the provisions of section 3813.

(b) If an organization, which receives a gift or contribution made after December 31, 1950, is not exempt under section 101 (6) because it engaged in a prohibited transaction involving a substantial part of its income or corpus with the purpose of diverting its income or corpus from its exempt purposes, and if the taxable year of the organization during which such gift or contribution is made begins after December 31, 1950, and is the same as, or is prior to, the taxable year of the organization in which such transaction occurred, then a deduction by the donor with respect to the gift or contribution shall not be disallowed under the preceding paragraph unless the donor (or any member of his family if the donor is an individual) is a party to such prohibited transaction. For the purpose of the preceding sentence, the members of an individual donor's family include only his brothers and sisters, whether by whole or half blood, spouse, ancestors, and lineal descendants.

*Example.* In 1952, corporation A, which files its income tax returns on the calendar year basis, creates a foundation purportedly for charitable purposes and deducts from its gross income for that year the amount of the gift to the foundation. Corporation A makes additional gifts to this foundation in 1953, 1954, and 1955, and takes charitable deductions for such years. B, an individual, also contributes to the foundation in 1953, 1954, and 1955, and takes charitable deductions for such years. In 1953, the foundation commences purposely to divert its corpus to the benefit of corporation A, and a substantial amount of such corpus is so diverted by the close of the taxable year 1954. For 1953 and subsequent taxable years, the exemption allowed the foundation under section 101 (6) is denied by reason of the provisions of section 3813 (c). Both corporation A and individual B would be disallowed any deduction for the contributions made during 1955 to the foundation. Moreover, the charitable deductions taken by corporation A for contributions to the foundation in the years 1953 and 1954 would also be disallowed since corporation A was a party to the prohibited transaction. If the facts and surrounding circumstances indicate that the contribution in 1952 by corporation A was for the purpose of the prohibited transaction, then the charitable deduction for the year 1952 shall also be disallowed with respect to corporation A, since the prohibited transaction would then have commenced with the making of such contribution and the exemption allowed the foundation under section 101 (6) would then be denied for 1952 by reason of provisions of section 3813 (c).

SEC. 331. EXEMPTION OF CERTAIN ORGANIZATIONS UNDER SECTION 101 (6) AND DEDUCTIBILITY OF CONTRIBUTIONS MADE TO SUCH ORGANIZATIONS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

Chapter 38 is hereby amended by inserting at the end thereof the following new sections:

* * * * *

SEC. 3814. DENIAL OF EXEMPTION UNDER SECTION 101 (6) IN THE CASE OF CERTAIN ORGANIZATIONS ACCUMULATING INCOME.

In the case of any organization described in section 101 (6) to which section 3813 is applicable, if the amounts accumulated out of income during the taxable year or any prior taxable year and not actually paid out by the end of the taxable year—

(1) Are unreasonable in amount or duration in order to carry out the charitable, educational, or other purpose or function constituting the basis for such organization's exemption under section 101 (6); or

(2) Are used to a substantial degree for purposes or functions other than those constituting the basis for such organization's exemption under section 101 (6); or

(3) Are invested in such a manner as to jeopardize the carrying out of the charitable, educational, or other purpose or function constituting the basis for such organization's exemption under section 101 (6),

exemption under section 101 (6) shall be denied for the taxable year.

* * * * *

SEC. 333. EFFECTIVE DATES (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * section 3814 of the Internal Revenue Code, added by section 331 of this Act, shall apply with respect to taxable years beginning after December 31, 1950, * * *.

§ 29.3814–1 *Denial of exemption under section 101 (6) in the case of certain organizations accumulating income.* (a) The restrictions enumerated in section 3814 are in addition to and not in limitation of the restrictions contained in section 101 (6). Even though an organization has not violated any of the terms of section 3814, it still may not qualify for tax exemption in view of the general provisions of section 101 (6). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator of such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purposes.

(b) For any taxable year beginning after December 31, 1950, any organization described in section 101 (6) other than an organization described in section 3813 (a) (1) through (5), inclusive, shall not be exempt under section 101 (6) if the amounts accumulated out of income dur-

ing the taxable year, or any prior taxable year (including taxable years beginning prior to January 1, 1951), and not actually paid out for exempt purposes by the end of the taxable year, are unreasonable. Amounts accumulated out of income become unreasonable when more income is accumulated than is needed, or when the duration of the accumulation is longer than is needed, in order to carry out the purpose constituting the basis for the organization's exemption. Furthermore, an organization shall not be exempt under section 101 (6) if amounts accumulated out of income are used to a substantial degree for purposes or functions other than those constituting the basis for the organization's exemption, or if such amounts are invested in such a manner as to jeopardize the carrying out of the purpose or function constituting the basis for the organization's exemption.

(c) For the purpose of section 3814, the term "income" means gains, profits, and income determined under the principles applicable in determining the earnings or profits of a corporation. The amount accumulated out of income during the taxable year or any prior taxable year shall be determined under the principles applicable in determining the accumulated earnings or profits of a corporation. In determining the reasonableness of an accumulation out of income, there will be disregarded the following: (1) The accumulation of gain upon the sale or exchange of a donated asset to the extent that such gain represents the excess of the fair market value of such asset when acquired by the organization over its substituted basis in the hands of the organization; (2) the accumulation of gain upon the sale or exchange of property held for the production of investment income, such as dividends, interest, and rents, where the proceeds of such sale or exchange are within a reasonable time reinvested in property acquired and held in good faith for the production of investment income.

(d) Whether the conditions specified in paragraphs (1), (2) and (3) of section 3814 are present in any case must be determined from all the facts. The conditions specified in section 3814 (1), (2) and (3) may result from the use of only one organization or of a chain of two or more organizations.

(e) An organization that has lost its exempt status by reason of the provisions of section 3814 may, in order to reestablish its exemption, file a claim for exemption with the collector for the district in which is located the principal place of business or principal office of the organization. Form 1023, the exemption application, a copy of which may be obtained from any collector, shall be used for this purpose. The claim for exemption must contain or be accompanied by information or evidence showing that the circumstances that caused the loss of exemption under section 3814 no longer exist, and an affidavit, by a principal officer of such organization authorized to make such affidavit, that the organization will not knowingly again violate the terms of section 3814. See § 29.101–2 for proof of exemption requirements in general. The provisions of section 3814 contemplate that an organization denied exemption thereunder will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

(f) In the case of an organization denied exemption under section 101 (6) solely by reason of the provisions of section 3814, deductions otherwise allowable under section 23 (o) (2), 23 (q) (2), 162 (a), or 505 (a) (2) for gifts or contributions to such organization shall not be disallowed.

(53 Stat. 32; 26 U. S. C. 62)

[SEAL] JOHN B. DUNLAP,
*Commissioner of Internal Revenue.*

Approved: August 4, 1952.

THOMAS J. LYNCH,
*Acting Secretary of the Treasury.*

[F. R. Doc. 52-8743; Filed, Aug. 7, 1952; 8:50 a. m.]

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[Regs. 111; T. D. 5925]

## PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

### CONSOLIDATED INCOME AND EXCESS PROFITS TAX RETURNS OF AFFILIATED CORPORATIONS

On June 4, 1952, notice of proposed rule making was published in the FEDERAL REGISTER (17 F. R. 5041) to conform § 29.141–1 of Regulations 111 (26 CFR Part 29) to the Revenue Act of 1950, approved September 23, 1950, to the Excess Profits Tax Act of 1950, approved January 3, 1951, and to the Revenue Act of 1951, approved October 20, 1951. No objection to the rules proposed having been received within the 30 days following such publication, the amendments of Regulations 111 set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding § 29.141–1 the following:

SEC. 121. INCREASE IN RATE OF CORPORATION INCOME TAXES (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

* * * * *

(f) *Tax under consolidated returns.* Section 141 (c) (relating to computation and payment of tax on consolidated returns) is hereby amended by inserting after the first sentence the following: "If the affiliated group includes one or more western hemisphere trade corporations (as defined in section 109), the increase of 2 per centum provided in the preceding sentence shall be applied only on the amount by which the consolidated corporation surtax net income of the affiliated group exceeds the portion (if any) of the consolidated corporation surtax net income attributable to the western hemisphere trade corporations included in such group."

* * * * *

SEC. 123. EFFECTIVE DATE OF PART II (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

The amendments made by this part (sections 121, 122, and 123, Revenue Act of 1950) shall be applicable only with respect to taxable years ending after December 31, 1949. * * *

SEC. 301. CONSOLIDATED RETURNS (EXCESS PROFITS TAX ACT OF 1950, APPROVED JANUARY 3, 1951).

Effective with respect to taxable years ending after June 30, 1950, section 141 of the Internal Revenue Code (relating to consolidated returns) is hereby amended to read as follows:

SEC. 141. CONSOLIDATED RETURNS.

(a) *Privilege to file consolidated returns.* An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed under subsection (b) prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year, the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) *Regulations.* The Secretary shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income- and excess-profits-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability.

(c) *Computation and payment of tax.* In any case in which a consolidated return is made or is required to be made, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) prescribed prior to the last day prescribed by law for the filing of such return; except that the tax imposed under section 15 or section 204 shall be increased by 2 per centum of the consolidated corporation surtax net income of the affiliated group of includible corporations. If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 109), the increase of 2 per centum provided in the preceding sentence shall be applied only on the amount by which the consolidated corporation surtax net income of the affiliated group exceeds the portion (if any) of the consolidated corporation surtax net income attributable to the Western Hemisphere trade corporations included in such group. For the purposes of the tax imposed by section 430, the sum of the excess profits credit and the unused excess profits credit adjustment of the affiliated group shall not be increased under the last sentence of section 431 to an amount in excess of $25,000 for the entire group.

(d) *Definition of "affiliated group".* As used in this section, an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

(1) Stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class

of the nonvoting stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) *Definition of "includible corporation".* As used in this section, the term "includible corporation" means any corporation except—

(1) Corporations exempt from taxation under section 101.

(2) Insurance companies subject to taxation under section 201 or 207.

(3) Foreign corporations.

(4) Corporations entitled to the benefits of section 251, by reason of receiving a large percentage of their income from sources within possessions of the United States.

(5) Corporations organized under the China Trade Act, 1922.

(6) Regulated investment companies subject to tax under Supplement Q.

(7) Any corporation described in section 449, or in section 454 (d), (f), and (g) (without regard to the exception in the initial clause of section 454), but not including such a corporation which has made and filed a consent, for the taxable year or any prior taxable year ending after June 30, 1950, to be treated as an includible corporation. Such consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary.

(8) Regulated public utilities described in section 448 (d) which compute their excess profits credit under section 448 but not including any such regulated public utility which has made and filed a consent, applicable to the taxable year, to compute its excess profits credit without regard to section 448. The consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary. The consent shall be applicable to the taxable year for which filed and to each consecutive subsequent taxable year for which a consolidated return is filed.

(f) *Includible insurance companies.* Despite the provisions of paragraph (2) of subsection (e), two or more domestic insurance companies each of which is subject to taxation under the same section of this chapter shall be considered as includible corporations for the purpose of the application of subsection (d) to such insurance companies alone.

(g) *Subsidiary formed to comply with foreign law.* In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this chapter as a domestic corporation.

(h) *Suspension of running of statute of limitations.* If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(i) *Allocation of income and deductions.* For allocation of income and deductions of related trades or businesses, see section 45.

(j) *Includible regulated public utilities.* Despite the provisions of paragraph (8) of subsection (e), two or more regulated public utilities each of which has made and filed a consent, applicable to the taxable year, to compute its excess profits credit under section 448 only, shall be considered as includible corporations for the purpose of the application of subsection (d) to such regulated public utilities alone. The consent shall be made and filed at such time and in such manner as may be prescribed by the Secretary. The consent shall be applicable to the taxable year for which filed and to each consecutive subsequent taxable year for which a consolidated return is filed.

SEC. 613. CONSOLIDATED RETURNS; INCLUDIBLE CORPORATION (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

If an affiliated group making a consolidated return with respect to the first taxable year of the group ending after June 30, 1950, included a corporation described in section 454 (f) of the Internal Revenue Code pursuant to the consent provided in section 141 (e) (7) of such code, such corporation may withdraw such consent at any time within ninety days after the enactment of this act. If such consent is withdrawn under the preceding sentence, the tax liability of the affiliated group and its several members for the taxable year shall be determined, assessed, and collected as if such corporation had never joined in the making of the consolidated return.

PAR. 2. Section 29.141–1, as amended by Treasury Decision 5441, approved February 28, 1945, is hereby further amended as follows:

(A) By changing paragraph (a) thereof to read as follows:

(a) *In general.* Section 141 prescribes rules for the making of consolidated income and excess profits tax returns by affiliated groups of corporations. Parts 23 and 33 of the subchapter (Regulations 104 and Regulations 110) are applicable, respectively, to the making of the consolidated income tax return and the consolidated excess profits tax return in the case of a taxable year ending prior to January 1, 1950. Part 24 of this subchapter (Regulations 129) are applicable to the making of the consolidated income and excess profits tax return in the case of a taxable year ending after December 31, 1949. The determination, computation, assessment, collection, and adjustment of income and excess profits tax liabilities of the affiliated group and each member thereof both during and after the period of affiliation shall be made under the applicable provisions of such regulations.

(B) By striking the word "and" which follows the semicolon in subparagraph (6) of paragraph (c).

(C) By striking subparagraph (7) from paragraph (c) and inserting in lieu thereof the following:

(7) With respect to taxable years beginning after December 31, 1943, and ending before July 1, 1950, a personal service corporation described in section 725 (a), or a corporation described in section 727 (e), (g), or (h) which without regard to the exception stated in the initial clause of section 727 would be exempt from the excess profits tax imposed by subchapter E of chapter 2, except as otherwise provided in section 141 (e) (7) with respect to such taxable years. As to the exception provided in section 141 (e) (7), see the provisions of this section set forth below;

(8) With respect to taxable years ending after June 30, 1950, a personal service corporation described in section 449 or a corporation described in section 454 (d), (f), or (g) which without regard to the exception stated in the initial clause of section 454 would be exempt from the excess profits tax imposed by subchapter D of chapter 1, except as otherwise provided in section 141 (e) (7). As to the exception provided in section 141 (e) (7), see the provisions of this section set forth below; and

(9) With respect to taxable years ending after June 30, 1950, a regulated public utility corporation described in section 448 (d), except as otherwise provided in section 141 (e) (8) and section 141 (j). As to the exception provided in section 141 (e) (8), see the provisions of this section set forth below. As to the exception provided in section 141 (j), see paragraph (g) of this section.

The corporations described in section 727 (e), (g), and (h), and in section 454 (d), (f), and (g), are personal holding companies as defined in section 501, certain domestic corporations which derive a specified part of their gross income from sources outside the United States (section 727 (g) and section 454 (f)), and certain corporations which receive compensation from the United States for the transportation of mail by aircraft (section 727 (h) and section 454 (g)).

Any corporation which otherwise would not be an includible corporation under subparagraphs (7) or (8) of this paragraph and section 141 (e) (7) may make and file a consent for any taxable year beginning after December 31, 1943, to be treated as an includible corporation. A corporation which has made and filed such consent for any taxable year ending prior to July 1, 1950, shall be treated as an includible corporation for the taxable year for which such consent is filed and for each subsequent taxable year ending before July 1, 1950. A corporation which has made and filed a consent for any taxable year ending after June 30, 1950, shall be treated as an includible corporation for such taxable year and for each subsequent taxable year. With respect to the subsequent taxable years in either such case, such corporation shall be deemed to be an includible corporation regardless of whether the affiliated group of which such corporation is a member during the subsequent taxable year is the same as the affiliated group of which it was a member when the consent was filed. If such corporation is a common parent corporation, the making and filing of the consolidated income tax return shall constitute the making and filing of its consent under section 141 (e) (7). If such corporation is a subsidiary, the filing for a taxable year ending before July 1, 1950, of its authorization and consent on Forms 1122 and 1122E in the manner prescribed by § 23.12 (b) of this subchapter (Regulations 104) and § 33.12 (b) of this subchapter (Regulations 110) shall constitute the making and filing of such consent; the filing for a taxable year ending after June 30, 1950, of its authorization and consent on Form 1122 in the manner prescribed by § 24.12 (b) of this subchapter (Regulations 129) shall constitute the making and filing of such consent. A consent to be treated as an includible corporation under section 141 (e) (7) cannot be withdrawn or revoked at any time after the consolidated return is filed for the first

taxable year for which the consent is filed, except as otherwise provided in section 613 of the Revenue Act of 1951. Section 613 of that act relates to the withdrawal within 90 days after October 20, 1951 (the date of enactment of that act), of consents for the first taxable year ending after June 30, 1950, with respect to corporations described in section 454 (f).

Under section 141 (e) (8), any regulated public utility corporation may make and file a consent for any taxable year ending after June 30, 1950, to compute its excess profits credit without regard to section 448. A corporation which has made and filed such consent shall be treated as an includible corporation under section 141 (e) (8) for the taxable year for which such consent is filed and for each consecutive subsequent taxable year for which a consolidated return is made or is required to be made by the affiliated group of which it was a member at the time such consent was filed unless it has ceased to be a member of such group. If such corporation is a common parent corporation, the making and filing of a consolidated return in which the consolidated excess profits credit is determined under provisions other than those of section 448 shall constitute the making and filing of its consent under section 141 (e) (8). If such corporation is a subsidiary, the filing of an authorization and consent on Form 1122, in the manner prescribed by § 24.12 (b) of this subchapter (Regulations 129), indicating thereon its consent to compute its excess profits credit without regard to section 448 shall constitute the making and filing of such consent. A consent to be treated as an includible corporation under section 141 (e) (8) cannot be withdrawn or revoked at any time after the consolidated return is filed for the first taxable year for which the consent is filed; however, if a separate return is properly filed by such a corporation for a subsequent taxable year, it is not thereafter an includible corporation under section 141 (e) (8) unless another consent under such section is made and filed.

(D) By striking the last sentence of paragraph (c) and inserting in lieu thereof the following: "In the case of taxable years ending before July 1, 1950, see sections 725 (b) and 727, and in the case of taxable years ending after June 30, 1950, see section 449 and section 454."

(E) By striking that part of paragraph (e) which follows the first sentence and inserting in lieu thereof the following: "The option to treat such foreign corporation as a domestic corporation must be exercised at the time of making the consolidated return, and cannot be exercised at any time thereafter. However, in the case of taxable years ending before January 1, 1950, the option must be exercised at the time of making the first consolidated return for any taxable year beginning after December 31, 1941, and ending before January 1, 1950. If the foreign corporation is included or is required to be included in the consolidated return of the affiliated group of which it is a member for any taxable year, it must be included in the consolidated return for each consecutive taxable year thereafter for which such group makes or is required to make a consolidated return. Furthermore, if the option is exercised at the time of making the first consolidated return for any taxable year beginning after December 31, 1941, and ending before January 1, 1950, the foreign corporation must be included in the consolidated return of the group for each subsequent taxable year ending before January 1, 1950, for which such group makes or is required to make a consolidated return, whether or not such taxable year is preceded by a taxable year for which separate returns are made."

(F) By striking the last sentence of paragraph (f) and inserting in lieu thereof the following: "For example, if the consolidated corporation surtax net income of an affiliated group for a taxable year is $40,000, the increase in the surtax for such taxable year is $800, that is, 2 percent of $40,000. For taxable years ending after December 31, 1949, if the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 109), the increase shall be applied in the manner provided in § 24.30 (b) (1) of this subchapter (Regulations 129)."

(G) By inserting immediately after paragraph (f) the following:

(g) *Consolidated returns of regulated public utilities computing excess profits credit under section 448.* For taxable years ending after June 30, 1950, a regulated public utility which has made and filed a consent to compute its excess profits credit under section 448 only may be included in an affiliated group (within the meaning of section 141 (d)) comprised solely of regulated public utility corporations each of which has made and filed such a consent. If such consent of a regulated public utility corporation is filed for any taxable year ending after June 30, 1950, such corporation shall be an includible corporation within the meaning of section 141 (j) for the taxable year for which such consent is filed and for all consecutive subsequent taxable years for which such affiliated group of which such corporation is a member makes or is required to make a consolidated return. If such corporation is a common parent corporation, the making and filing of a consolidated return in which the consolidated excess profits credit is determined under the provisions of section 448 shall constitute the making and filing of its consent under section 141 (j). If such corporation is a subsidiary, the filing of its authorization and consent on Form 1122, in the manner prescribed by § 24.12 (b) of this subchapter (Regulations 129), indicating thereon its consent to compute its excess profits credit with respect to section 448 only, shall constitute the making and filing of such consent. A consent to be treated as an includible corporation under section 141 (j) cannot be withdrawn or revoked at any time after the consolidated return is filed for the first taxable year for which the consent is filed. However, if a separate return is properly filed by such a corporation for a subsequent taxable year, it is not thereafter an includible corporation under section 141 (j) unless another consent under such section is made and filed.

(53 Stat. 32, 58, 467; 26 U. S. C. 62, 141, and 3791)

NORMAN A. SUGARMAN,
*Acting Commissioner of Internal Revenue.*

Approved: August 4, 1952.

THOMAS J. LYNCH,
*Acting Secretary of the Treasury.*

[F. R. Doc. 52-8744; Filed, Aug. 7, 1952; 8:50 a. m.]

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[Regs. 130; T. D. 5923]

## PART 40—EXCESS PROFITS TAX; TAXABLE YEARS AFTER JUNE 30, 1950

### CORPORATIONS WHICH MINE STRATEGIC MINERALS

Regulations 130 (26 CFR Part 40) are amended as follows:

PARAGRAPH 1. There is inserted immediately following the words "in section 450 (b)" as they appear in the parenthetical clause in the first sentence of § 40.450–1 (a) the following: "and in paragraph (e) of this section" so that, as amended, such sentence shall read as follows: "If a domestic corporation is engaged in mining a strategic mineral (as defined in section 450 (b) and in paragraph (e) of this section) within the United States, the portion of its adjusted excess profits net income attributable to such mining is exempt from excess profits tax."

PAR. 2. Section 40.450–1 (e) is redesignated as § 40.450–1 (f), and there is inserted immediately following § 40.450–1 (d) the following:

(e) In addition to the minerals defined in section 450 (b) as strategic minerals the following minerals have been certified, on the date indicated, to the Secretary as being within such definition:

(1) On May 23, 1951, block steatite talc;

(2) On November 5, 1951, rare earths (metals of successive atomic numbers beginning with lanthanum 57 and extending through lutecium 71 of the periodic table) conforming to National Stockpile Specification P–35, as revised December 12, 1950.

This Treasury decision merely sets forth the minerals certified to the Secretary of the Treasury by other Government agencies and the dates of such certifications. Accordingly, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of said act.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] JOHN B. DUNLAP,
*Commissioner of Internal Revenue.*

Approved: August 4, 1952.

THOMAS J. LYNCH,
*Acting Secretary of the Treasury.*

[F. R. Doc. 52-8745; Filed, Aug. 7, 1952; 8:51 a. m.]

# TITLE 32—NATIONAL DEFENSE

## Chapter XIV—The Renegotiation Board

Subchapter A—Military Renegotiation Regulations Under the 1948 Act

PART 1421—AUTHORITY AND ORGANIZATION FOR RENEGOTIATION

PART 1422—PROCEDURE FOR RENEGOTIATION

PART 1423—DETERMINATION OF RENEGOTIABLE BUSINESS AND COSTS

PART 1425—AGREEMENTS, CLEARANCES AND STATEMENTS

PART 1427—MILITARY RENEGOTIATION FORMS

PART 1428—STATUTES, ORDERS AND DIRECTIVES

MISCELLANEOUS AMENDMENTS

Part 1421 is amended in the following respects:

1. Subpart A.—*Summary of the 1948 act and related statutes,* is deleted in its entirety and the following inserted in lieu thereof: "Subpart A. [Reserved.]"

2. The first sentence of § 1421.123–1 is deleted and the following inserted in lieu thereof: "For purposes of the Code of Federal Regulations, the Military Renegotiation Regulations under the Renegotiation Act of 1948 have been assigned to Title 32, Chapter XIV, Subchapter A, comprising Parts 1400 to 1449, inclusive."

3. Subpart C—*Organization and function of the Renegotiation Boards,* is deleted in its entirety and the following inserted in lieu thereof:

SUBPART C—ORGANIZATION AND FUNCTION OF THE RENEGOTIATION BOARD

Sec.



AUTHORITY: §§ 1421.130 to 1421.133 issued under 62 Stat. 259, as amended; sec. 109, Pub. Law 9, 82d Cong. (65 Stat. 22); 50 U. S. C. App. 1193.

§ 1421.130 *Statutory authority.*

§ 1421.130–1 *Renegotiation Act of 1948.* The authority and discretion to administer the Renegotiation Act of 1948 are conferred upon the Secretary of Defense with power of delegation (subsections (f) and (g); see § 1428.801 of this subchapter).

§ 1421.130–2 *Renegotiation Act of 1951.* Section 107 (f) of the Renegotiation Act of 1951 provides in part that, notwithstanding any other provisions of law, the Secretary of Defense is authorized to delegate, in whole or in part, to The Renegotiation Board created by that act, the powers, functions and duties conferred upon him by any other renegotiation law.

§ 1421.131 *Delegation by the Secretary of Defense to The Renegotiation Board.* On January 18, 1952, effective January 20, 1952, the Secretary of Defense delegated to The Renegotiation Board all of the powers, functions and duties conferred upon him by the Renegotiation Act of 1948, as amended or supplemented (see § 1428.824 of this subchapter).

§ 1421.132 *Redelegation by The Renegotiation Board to the Secretary of Defense.* On January 20, 1952, The Renegotiation Board redelegated to the Secretary of Defense the power, function and duty of eliminating excessive profits under subsection (b) of the Renegotiation Act of 1948, as amended or supplemented, with power of redelegation (see § 1428.825 of this subchapter).

§ 1421.133 *Redelegation by the Secretary of Defense to the Secretaries of the Army, Navy and Air Force.* On January 20, 1952, the Secretary of Defense redelegated to each of the Secretaries of the Army, the Navy and the Air Force, respectively, the power, function and duty of eliminating excessive profits under subsection (b) of the Renegotiation Act of 1948, as amended or supplemented, with power of redelegation (see § 1428.826 of this subchapter).

Part 1422 is amended by adding a new Subpart J to read as follows:

SUBPART J—CONTROL OF RENEGOTIATION RECORDS AND INFORMATION CONTAINED THEREIN

NOTE: The regulations on this subject are set forth in Part 1480 of the Renegotiation Board Regulations under the Renegotiation Act of 1951 (Title 32, Chapter XIV, Subchapter B; 17 F. R. 2542).

Part 1423 is amended in the following respects:

1. Subpart A—Fiscal year basis for renegotiations and exceptions, is amended by adding thereto § 1423.310 to read as follows:

§ 1423.310 *Fiscal year beginning in 1950 and ending in 1951.* In the case of a fiscal year beginning in 1950 and ending in 1951, as in the case of any other fiscal year, renegotiation will generally be conducted on the fiscal year basis (see § 1423.301). However, no proceeding under the 1948 act will include any amounts received or accrued by the contractor after December 31, 1950 from its renegotiable prime contracts and subcontracts. Upon request of any contractor, the Board will enter into an agreement for combined renegotiation pursuant to section 102 (c) of the Renegotiation Act of 1951 in any case of a fiscal year beginning in 1950 and ending in 1951 when such contractor has receipts or accruals before January 1, 1951 from prime contracts and subcontracts subject to the 1948 act and also has receipts or accruals after December 31, 1950 subject to the 1951 act, but only when, if no such agreement were made, a contractor would be renegotiated under one or both of such acts. Regulations pertaining to such agreements, including the form thereof, are set forth in § 1457.2 of the Renegotiation Board Regulations issued under the 1951 act.

2. Section 1423.331–1 is amended by adding thereto paragraph (e) to read as follows:

(e) Section 102 (c) of the Renegotiation Act of 1951 provides in part as follows:

> The Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, whether such contract or subcontract was made on, before or after such first day.

Whenever in this part any of the terms "subject contracts", or "subject to renegotiation", or "renegotiable contracts or subcontracts", or "renegotiable business", or similar language is used, such term shall be deemed to include any amounts received or accrued by the contractor or subcontractor on or after the first day of January 1951 whether the contract or subcontract from which such receipt or accrual arose was made on, before or after such first day.

3. Section 1423.332–1 is amended by deleting the first sentence thereof and inserting in lieu thereof the following: "All contracts required by the Renegotiation Act of 1948, as amended or supplemented, to contain a Renegotiation Article are subject to that act except to the extent of amounts received or accrued on or after January 1, 1951 (see section 102 (c) of the Renegotiation Act of 1951)."

4. Appendix A to Subpart E of Part 1423 is amended by inserting after the heading thereof the following:

> Section 102 (c) of the Renegotiation Act of 1951 provides that the Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the first day of January 1951, whether such contract or subcontract was made on, before, or after such first day. The following exemptions relate only to contracts and subcontracts to the extent of amounts received or accrued prior to January 1, 1951.

5. Subpart F—*Commencement and completion of renegotiation,* is deleted in its entirety and the following inserted in lieu thereof.

SUBPART F—LIMITATIONS ON COMMENCEMENT AND COMPLETION OF RENEGOTIATION

Sec.



AUTHORITY: §§ 1423.361 to 1423.363 issued under 62 Stat. 259, as amended; sec. 109, Pub. Law 9, 82d Cong. (65 Stat. 22); 50 U. S. C. App. 1193.

§ 1423.361 *Statutory provision.* Section 202 of the Renegotiation Act of 1951 provides as follows:

> No proceeding under the Renegotiation Act of 1948 to determine the amount of excessive profits for any fiscal year shall be commenced more than one year after the mandatory statement required by the regulations issued pursuant to such Act is filed with respect to such year, or more than six months after the date of the enactment of this title, whichever is the later, and if such

proceeding is not so commenced (in the manner provided by the regulations prescribed pursuant to such Act), all liabilities of the contractor or subcontractor under such Act for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits under such Act is not made within two years following the commencement of the renegotiation proceeding, then upon the expiration of such two years all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (1) such two-year period may be extended by mutual agreement, and (2) if within such two years such an order is duly issued pursuant to such Act, such two-year limitation shall not apply to the review of such order by any renegotiation board duly authorized to undertake such review.

§ 1423.362 *Commencement of renegotiation proceedings.*

§ 1423.362–1 *Period of commencement.* Under § 1422.241 of this subchapter, renegotiation proceedings are commenced by mailing of a notice to that effect, by registered mail, to the contractor or subcontractor. Unless renegotiation proceedings are commenced within one year after the Standard Form of Contractor's Report prescribed in § 1422.222–1 of this subchapter is filed with respect to any fiscal year, the liability of the contractor or subcontractor for excessive profits received or accrued during such fiscal year is discharged. For the purposes of this paragraph, the filing of the Standard Form of Contractor's Report is considered to be the filing of the mandatory statement referred to in section 202 of the Renegotiation Act of 1951.

§ 1423.362–2 *Effect of false statement in Standard Form of Contractor's Report.* The Standard Form of Contractor's Report provides the information upon the basis of which it is determined whether the contractor or subcontractor will or will not be renegotiated under the act. If the purported Standard Form of Contractor's Report filed by any contractor or subcontractor for any fiscal year contains a false statement of a material fact, either fraudulently or negligently made, the filing of such purported statement will not be regarded as a filing of the Standard Form of Contractor's Report, sufficient to start the one-year period of limitations running as prescribed in section 202 of the Renegotiation Act of 1951, and even if the renegotiation is not commenced within one year after the filing thereof, the liability of the contractor or subcontractor for excessive profits received or accrued during the fiscal year involved is not discharged.

§ 1423.363 *Completion of renegotiation proceedings.* Unless an agreement or order determining the amount of excessive profits (see Parts 1425 and 1426 of this subchapter) is made within two years after the commencement of a renegotiation proceeding with respect to any fiscal year, the liability of the contractor or subcontractor for excessive profits received or accrued during such fiscal year is discharged. If in the course of such proceeding, the contractor makes, either fraudulently or negligently, a false statement of a material fact, the liability of the contractor or subcontractor for excessive profits received or accrued during the fiscal year involved is not discharged even though renegotiation is not completed by the Board within two years after the commencement of such renegotiation proceeding.

6. Subpart H—*Costs allocable and allowable against renegotiable business,* is amended by deleting § 1423.388–2 and inserting in lieu thereof the following:

§ 1423.388–2 *Charitable and other contributions.* (a) Contributions will, to the extent allocable thereto, be allowed as a cost of renegotiable business if such contributions are estimated to be deductible in the fiscal year under review for Federal income tax purposes under section 23 (o) and (q) of the Internal Revenue Code.

(b) The primary consideration in determining the extent to which such contributions are allocable to renegotiable business is whether they are reasonably necessary for the conduct of such business. In this connection weight will be given to the practice of the contractor prior to the year under review with respect to charitable contributions.

Part 1425 is amended by deleting § 1425.508 in its entirety.

Part 1427 is amended by inserting the following immediately after the heading:

NOTE: Except with respect to Form MRR 702, Standard Form of Contractor's Report, set forth in § 1427.702, the Board may direct any contractor to employ the forms approved for use under the Renegotiation Act of 1951, and any contractor who uses such a form, in compliance with such a direction, shall be deemed to have complied with the regulations in this subchapter.

Part 1428 is amended as follows:

1. Subpart A: *Statutes* is amended by deleting the word "Reserved" in § 1428.805 and inserting in lieu thereof the following:

§ 1428.805 *Section 102 (c), Renegotiation Act of 1951 (Pub. Law 9, 82d Cong.).*

(c) *Renegotiation Act of 1948.* The Renegotiation Act of 1948 shall not be applicable to any contract or subcontract to the extent of the amounts received or accrued by a contractor or subcontractor on or after the 1st day of January 1951, whether such contract or subcontract was made on, before, or after such first day. In the case of a fiscal year beginning in 1950 and ending in 1951, if a contractor or subcontractor has receipts or accruals prior to January 1, 1951, from contracts or subcontracts subject to the Renegotiation Act of 1948, and also has receipts or accruals after December 31, 1950, to which the provisions of this title are applicable, the provisions of this title shall, notwithstanding subsection (a), apply to such receipts and accruals prior to January 1, 1951, if the Board and such contractor or subcontractor agree to such application of this title; and in the case of such an agreement the provisions of the Renegotiation Act of 1948 shall not apply to any of the receipts or accruals for such fiscal year.

2. Subpart B: *Directives* is amended by adding thereto §§ 1428.825, 1428.826 and 1428.827 to read as follows:

§ 1428.825 *Delegation by the Secretary of Defense to The Renegotiation Board.* For the text of this delegation, see 17 F. R. 736.

§ 1428.826 *Redelegation by The Renegotiation Board to the Secretary of Defense.* For the text of this redelegation, see 17 F. R. 736.

§ 1428.827 *Redelegation by the Secretary of Defense to the Secretaries of the Army, Navy and Air Force.* For the text of this redelegation, see 17 F. R. 1065.

(62 Stat. 259, as amended; sec. 109, Pub. Law 9, 82d Cong. (65 Stat. 22); 50 U. S. C. App. 1193)

Dated: August 5, 1952.

JOHN T. KOEHLER, *Chairman,*
*The Renegotiation Board.*

[F. R. Doc. 52–8750; Filed, Aug. 7, 1952; 8:53 a. m.]

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**Subchapter B—Renegotiation Board Regulations Under the 1951 Act**

## PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

### LIST OF EXEMPT RAW MATERIALS

This part is amended by deleting § 1453.2 (b) (3) in its entirety, and inserting in lieu thereof the following:

(3) *List of exempt raw materials.* (i) The Board has determined that the following products are exempt under section 106 (a) (3) of the act and subparagraph (2) of this paragraph when they represent products of a mine, oil or gas well, or other mineral or natural deposit, or timber, which have not been processed, refined or treated beyond the first form or state suitable for industrial use, and are not exempt if manufactured from raw materials which do not fall within the above description or which have at some prior stage been processed, refined or treated beyond such first form or state suitable for industrial use. For example, magnesium or salt products derived from sea water, products manufactured from the atmosphere, secondary aluminum pigs and ingots, and other similar products are not considered exempted products.

(ii) This list is not intended to be comprehensive but is being promulgated as a guide to contractors in completing the Standard Form of Contractor's Report, prescribed in § 1470.3 (a) of this subchapter. The Board may from time to time add to the list, or revise it if errors are found.

RAW MATERIALS EXEMPTION LIST

Aggregates, including such items as washed or screened sand, gravel or crushed stone.

Alumina; aluminum sulphate; aluminum ingots and pigs.

Asphalt, natural and natural tar.

Antimony ore, crude; antimony ore, concentrated; antimony metal; antimony oxide; antimony sulphide; liquated antimony.

Arsenic, crude; arsenic powder; arsenious oxide (white arsenic).

Asbestos rock; asbestos fibre.

Barytes, crude crushed.

Bauxite crude; calcined or dried bauxite; bauxite abrasive grains.

Bentonite, dried, crushed, granulated and pulverized.

Beryl ore and concentrates; beryllium oxide; beryllium metal; beryllium master alloys.

Bismuth metal.

Borax.

Cadmium flue dust; cadmium oxide; metallic cadmium.

Celestite, ores and concentrates.

Cement, natural and Portland.

China clay; kaolin; fire clay; brick and tile made from clays other than kaolin, china and fire clay.

Chlorine, hydrogen and sodium produced directly by electrolysis of salt brine.

Chromium ore and ferrochrome; chromite not processed beyond the form or state suitable for use as a refractory; bichromates.

Coal, prepared; run-of-mine coal.

Cobalt oxide; cobalt anodes, shot and rondelles.

Columbium ore and concentrates; columbium oxide, ferrocolumbium.

Copper ore, crude; copper ore, concentrated; copper matte; blister copper, copper billets, unrefined anodes, cathodes, cakes, ingots, ingot bars, powder, slabs and wirebars.

Corundum ore and concentrates; corundum grain.

Cryolite ore and concentrates.

Diaspore; diaspore brick.

Diatomaceous silica, lump, block, brick and powder.

Dolomite; crushed dolomite.

Feldspar, crude and ground.

Ferrosilicon.

Fluorspar ore; fluorspar fluxing gravel; lump ceramic ground fluorspar; acid grades of fluorspar.

Fuller's earth.

Gas, natural, not processed or treated further than the processing or treating customarily occurring at or near the well.

Germanium chloride, germanium oxide.

Graphite ore and concentrates; flake graphite; graphite fines, lump and chip; graphite powder.

Gypsum, crude; calcined gypsum.

Indium metal.

Industrial diamonds.

Iridium metal, including ingot and powder.

Iron ore, crude; pig iron.

Iron pyrites, ores and concentrates.

Kyanite ore and concentrates; kyanite brick.

Lead ore; refined lead bars, ingots and pigs; antimonial lead bars, ingots and pigs.

Lime, including quick lime.

Limestone, crushed limestone.

Lithium bearing ores and concentrates; lithium carbonate; lithium hydroxide; lithium chloride.

Magnesite; dead burned magnesite.

Magnesium-bearing minerals, including brucite; magnesium oxide; magnesium chloride; metallic magnesium, pigs and ingots.

Mercury ore, mercury metal.

Manganese ore; ferromanganese, including spiegeleisen, silicomanganese; metallic manganese.

Mesothorium.

Mica, crude, hand-cobbed; block mica; sheet mica; film mica; splittings; wet or dry ground mica.

Molybdenum ore and concentrates; molybdenum oxide; calcium molybdate; ferromolybdenum.

Monel ore; monel matte; monel ingots, pigs, and shot, produced from monel matte.

Natural gasoline; casinghead gasoline; residue gas.

Nickel ore and and concentrates; nickel matte; nickel oxide; nickel ingots, cathodes and shot; nickel metal powder.

Oil, crude, not-processed or treated further than the processing or treating customarily occurring at or near the well.

Osmium metal, including ingot and powder.

Palladium metal, including ingot and powder.

Phosphate rock; elemental phosphorus, ferrophosphorus; phosphorus pentoxide and phosphoric acid derived directly by treatment of phosphate rock; superphosphate.

Platinum ore and concentrates; platinum metal, including ingot and powder.

Pumice, lump.

Quartz crystal, raw.

Radium bromide; radium sulfate; radium gas.

Rare earth minerals, rare earth products; didymium (neodymium) carbonate; lanthamm oxide; neodymium oxalate, rare earth chloride, technical; rare earth nitrate.

Rhodium metal, including ingot and powder.

Ruthenium metal, including ingot and powder.

Salt, rock; evaporated salt; soda ash, ammonia and electrolytic caustic soda and bicarbonate of soda when derived directly by treatment of brine.

Sea shells; oyster shells; clam and reef shells.

Selenium metal.

Silver, refined, including bars, shot, powder and grains.

Sodium aluminate.

Stone, rough and dimension.

Sulfur, crude.

Sulfuric acid; oleum (other than sulfuric acid or oleum produced from crude sulfur or any other product having an industrial use).

Standing timber, logs, logs sawed into length, and logs with or without bark.

Talc, crude, lump, ground and sawed.

Tantalum ore and concentrates; tantalum double fluoride.

Tellurium metal.

Thorium nitrate.

Tin ore and concentrates; refined pig tin.

Titanium-bearing ores and concentrates, including ilmenite and rutile; titanium oxide; metallic titanium; ferrotitanium; ferro carbon titanium; titanium potassium oxalate.

Tungsten ore and concentrates; sodium tungstate; ferro-tungsten, metallic tungsten, including powder; tungstic oxide; tungstic acid.

Uranium ores and concentrates; uranium oxide.

Vanadium ores and concentrates; sodium vanadate; vanadium pentoxide; ferrovanadium.

Vermiculite ore, crude, crushed and expanded.

Whiting, chalk lump.

Zeolites derived from glauconite.

Zinc ores and concentrates; zinc anodes, bars, oxide, powder and slabs.

Zirconium concentrates; metallic zirconium; zirconium minerals not processed beyond the form or state suitable for use as a refractory.

(Sec. 109, Pub. Law 9, 82d Cong. (65 Stat. 22))

Dated: August 5, 1952.

JOHN T. KOEHLER,
*Chairman,*
*The Renegotiation Board.*

[F. R. Doc. 52-8749; Filed, Aug. 7, 1952; 8:52 a. m.]

# TITLE 32A—NATIONAL DEFENSE, APPENDIX

## Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 15, Amdt. 17]

### CPR 15—CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 3 AND GROUP 4 STORES

#### OVER THE COUNTER SALES BY GIFT PACKAGE SHIPPERS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 17 to Ceiling Price Regulation 15 is hereby issued.

#### STATEMENT OF CONSIDERATIONS

This amendment will permit retailers, 65 percent of whose sales are shipped via mail or express and thus already under the GCPR, to price the balance of their sales of CPR 15 items under the GCPR.

There are approximately 2,000 to 3,000 retailers in the United States doing a collective volume of approximately $60,000,000 annually whose major business is the sale of gift and holiday packages which are shipped via mail or express. In Florida alone there are approximately 400 such establishments doing collectively over $5,000,000 in sales annually.

Historically, this group of retailers had markups much higher than the highest markups now permitted under CPR 15. Available data indicate that the Florida group, for instance, has historically had an average markup of 67 percent. This difference in markup has already been recognized by a prior amendment providing that all retail sales of gift holiday packages which are shipped via mail or express were to be excluded from the provisions of this regulation and placed under the GCPR.

However, one factor was not considered at that time, namely, that all these retailers have some over-the-counter business. This over-the-counter business was left under the provisions of CPR 15 with the result that in a substantial number of cases the same item has had two ceiling prices depending on whether it was to be shipped or sold over-the-counter. This has arisen from the fact that retailers involved package almost all items they sell in such form that they can be readily shipped via mail or express because they do not know whether any particular package will be sold over-the-counter or shipped. Requiring that a package sold for shipment be under the GCPR, while an identical package sold over-the-counter be under CPR 15 has caused difficulties for the retailers in their relations with the public. The Director has determined that in view of the relatively small volume of over-the-counter sales, providing separate ceiling prices is not necessary for the purposes of the price stabilization program.

In view of the foregoing considerations, this amendment permits retailers

who qualify to apply to the OPS District Office for their area for an adjustment putting under the GCPR all sales of items covered by CPR 15. Immediately upon filing this application the retailer may begin to price under the GCPR, subject to disapproval by the OPS.

In the formulation of this amendment, it has been found impracticable to consult with the official advisory committee. However, the provisions of this amendment incorporate the recommendations of trade association representatives and other persons representing substantial segments of the industry. In the judgment of the Director of Price Stabilization the provisions of this amendment are generally fair and equitable, are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended, and comply with all the applicable standards of that act.

AMENDATORY PROVISIONS

A new section 26b is inserted in Article III after Section 26a to read as follows:

SEC. 26b. *How certain stores that ship most of their sales via mail or express may under specific conditions apply to be excluded from using the markups in this regulation for the purpose of establishing their ceiling prices.* (a) If your store or food department ships 65 percent or more by dollar volume of the items it sells via mail or express, you may obtain permission to be excluded from using the markups in this regulation for the purpose of establishing your ceiling prices.

(b) In order to obtain this permission you must file an application with the OPS District Office for your area and furnish the following information:

(1) Your total dollar volume of food sales in the calendar year or fiscal year preceding the date of your application.

(2) Total dollar volume of food sales shipped via mail or express in the calendar year or your fiscal year preceding the date of your application.

(c) You may consider your store or food department excluded from the requirement that you use the markups prescribed by this regulation for the purpose of establishing your ceiling prices as soon as you have filed your application in accordance with this section. You must then figure all your ceiling prices for food items under the General Ceiling Price Regulation, as amended. This authority may be withdrawn if it is determined by OPS that your store or food department does not qualify for adjustment under this section.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

*Effective date.* This amendment shall become effective August 12, 1952.

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 7, 1952.

[F. R. Doc. 52-8873; Filed, Aug. 7, 1952; 4:00 p. m.]

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[Ceiling Price Regulation 16, Amdt. 17]

## CPR 16—CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 1 AND 2 STORES

### OVER THE COUNTER SALES BY GIFT PACKAGE SHIPPERS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 17 to Ceiling Price Regulation 16 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment will permit retailers, 65 percent of whose sales are shipped via mail or express and thus already under the GCPR, to price the balance of their sales of CPR 16 items under the GCPR.

There are approximately 2,000 to 3,000 retailers in the United States doing a collective volume of approximately $60,000,000 annually whose major business is the sale of gift and holiday packages which are shipped via mail or express. In Florida alone there are approximately 400 such establishments doing collectively over $5,000,000 in sales annually.

Historically, this group of retailers had markups much higher than the highest markups now permitted under CPR 16. Available data indicate that the Florida group, for instance, has historically had an average markup of 67 percent. This difference in markup has already been recognized by a prior amendment providing that all retail sales of gift holiday packages which are shipped via mail or express were to be excluded from the provisions of this regulation and placed under the GCPR.

However, one factor was not considered at that time, namely, that all these retailers have some over-the-counter business. This over-the-counter business was left under the provisions of CPR 16 with the result that in a substantial number of cases the same item has had two ceiling prices depending on whether it was to be shipped or sold over-the-counter. This has arisen from the fact that retailers involved package almost all items they sell in such form that they can be readily shipped via mail or express because they do not know whether any particular package will be sold over-the-counter or shipped. Requiring that a package sold for shipment be under the GCPR, while an identical package sold over-the-counter be under CPR 16 has caused difficulties for the retailers in their relations with the public. The Director has determined that in view of the relatively small volume of over-the-counter sales, providing separate ceiling prices is not necessary for the purposes of the price stabilization program.

In view of the foregoing considerations, this amendment permits retailers who qualify to apply to the OPS District Office for their area for an adjustment putting under the GCPR all sales of items covered by CPR 16. Immediately upon filing this application the retailer may begin to price under the GCPR, subject to disapproval by the OPS.

In the formulation of this amendment, it has been found impracticable to consult with the official advisory committee. However, the provisions of this amendment incorporate the recommendations of trade association representatives and other persons representing substantial segments of the industry. In the judgment of the Director of Price Stabilization the provisions of this amendment are generally fair and equitable, are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended, and comply with all the applicable standards of that act.

AMENDATORY PROVISIONS

A new section 24b is inserted in Article III after section 24a to read as follows:

SEC. 24b. *How certain stores that ship most of their sales via mail or express may under specific conditions apply to be excluded from using the markups in this regulation for the purpose of establishing their ceiling prices.* (a) If your store or food department ships 65 percent or more by dollar volume of the items it sells via mail or express, you may obtain permission to be excluded from using the markups in this regulation for the purpose of establishing your ceiling prices.

(b) In order to obtain this permission you must file an application with the OPS District Office for your area and furnish the following information:

(1) Your total dollar volume of food sales in the calendar year or fiscal year preceding the date of your application.

(2) Total dollar volume of food sales shipped via mail or express in the calendar year or your fiscal year preceding the date of your application.

(c) You may consider your store or food department excluded from the requirement that you use the markups prescribed by this regulation for the purpose of establishing your ceiling prices as soon as you have filed your application in accordance with this section. You must then figure all your ceiling prices for food items under the General Ceiling Price Regulation, as amended. This authority may be withdrawn if it is determined by OPS that your store or food department does not qualify for adjustment under this section.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

*Effective date.* This amendment shall become effective August 12, 1952.

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 7, 1952.

[F. R. Doc. 52-8874; Filed, Aug. 7, 1952; 4:00 p. m.]

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[Ceiling Price Regulation 67, Amdt. 11]

## CPR 67—RESELLER'S CEILING PRICES FOR MACHINERY AND RELATED MANUFACTURED GOODS

### PRIMARY ALUMINUM MILL PRODUCTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization

Agency General Order No. 2, this amendment to Ceiling Price Regulation 67 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment places primary aluminum mill products under the coverage of this regulation.

Prior to the issuance of this amendment there had been no change in the ceiling price of primary aluminum mill products since the issuance of the General Ceiling Price Regulation. Since the ceiling prices established by resellers of these products under the General Ceiling Price Regulation had been determined generally in accordance with normal practice, there was no prior necessity for placing these resellers under this regulation. The Office of Price Stabilization is issuing simultaneously herewith, Supplementary Regulation 113 to the General Ceiling Price Regulation—Producers of Aluminum Mill Products, and because of the necessity of providing resellers of these aluminum products with pricing methods which enable them to reflect the increases provided for in this supplementary regulation in accordance with their normal practice, it is considered appropriate to include all such products in CPR 67.

In view of the emergency nature of this amendment special circumstances has rendered consultation with industry representatives, including trade association representatives, impracticable.

AMENDATORY PROVISIONS

Ceiling Price Regulation 67 is amended by adding the following items to Appendix A:

Primary aluminum mill products. (This term means any new or unused pig, ingot, sheet, coil, plate, blanks, circles, foil, wire, rod and bar (including structurals), extrusions (including shapes, tubing, pipe), tubing (drawn and welded), bare electrical conductor cables, roofing and siding, powder and paste, and roll formed shapes made from aluminum or aluminum alloys.) It does not include any fabricated product made from any of the foregoing products.

*Effective date.* This amendment is effective as of August 4, 1952.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 6, 1952.

[F. R. Doc. 52-8813; Filed, Aug. 6, 1952; 4:44 p. m.]

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[Ceiling Price Regulation 97, Amdt. 9]

CPR 97—CEILING PRICES FOR PACIFIC NORTHWEST LOGS

ADDITION OF ACCREDITED SCALERS AND GRADERS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, Economic Stabilization Agency General Order No. 2, Delegation of Authority No. 30, this Amendment 9 to Ceiling Price Regulation 97 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Ceiling Price Regulation No. 97 carries out the intention expressed in section 19 by adding to Appendix A certain employees of previously accredited log scaling and grading bureaus, and individual scalers and graders who have been found qualified by the Regional Director of Region 13 to scale and grade logs subject to the regulation.

The persons accredited by this amendment have submitted the information and statements required under section 19. The Regional Director of Region 13 has requested the appropriate log scaling and grading bureaus named in this section to examine into the qualifications of each applicant. The Regional Director has evaluated whatever findings were made by the appropriate bureau, has considered whatever other information has been brought to his attention, and is of the opinion that each applicant is qualified for listing as an accredited scaler and grader.

This amendment also deletes from subparagraph (4) of paragraph (b) one accredited employee and adds him to subparagraph (3) of paragraph (b); deletes from subparagraph (5) of paragraph (b) three accredited employees who are no longer scaling and grading logs; deletes from subparagraph (6) of paragraph (b) two accredited employees who are no longer scaling and grading logs; and deletes from paragraph (c) an individual scaler and grader, who by this amendment has been accredited as an employee scaler and grader under subparagraph (5) of paragraph (b).

In the formation of this amendment, there has been consultation with industry representatives, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

Ceiling Price Regulation 97 is hereby amended in the following respects:

1. Subparagraph (1) of paragraph (b) of Appendix A is amended by inserting the name "Coughlin, Robert A." immediately after the name "Copple, Wilburn L."; inserting the name "Jolly, Gordon F." immediately after the name "Johnson, Norman Donald"; inserting the name "McHone, Don L." immediately after the name "McEvoy, Roy J."; inserting the name "Murphy, Thomas W." immediately after the name "Muir, Gordon"; inserting the name "Petrie, Ross" immediately after the name "Perin, Warren W."; and inserting the name "Rackloff, Howard E." immediately after the name "Pearson, Clinton."

2. Subparagraph (3) of paragraph (b) of Appendix A is amended by inserting the name "Hayes, Roy A." immediately after the name "Cairns, Richard."

3. Subparagraph (4) of paragraph (b) of Appendix A is amended by deleting the name "Hayes, Roy A." therefrom.

4. Subparagraph (5) of paragraph (b) of Appendix A is amended by deleting the names "Cacy, Harold B.," "Hubbard, Herman H.," and "Hufford, Marion D." therefrom.

5. Subparagraph (5) of paragraph (b) of Appendix A is amended by inserting the name "Crabb, Glen E." immediately after the name "Blomgren, George V."; inserting the name "Donivan, Bryan" and the name "Farrier, J. Merle," in that order, immediately after the name "Crawford, Elmer B."; inserting the name "Johnson, John F." immediately after the name "Flynn, Harry"; inserting the name "Morris, Ivan G." immediately after the name "Moore, Elmer H."; and inserting the name "Petty Norman" and the name "Phillips, Jack F." immediately after the name "Nosler, Dan L."

6. Subparagraph (6) of paragraph (b) of Appendix A is amended by deleting the name "Duerfeldt, Bill" and the name "Hudson, Frederick" therefrom.

7. Subparagraph (6) of paragraph (b) of Appendix A is amended by inserting the name "Scofield, Roger" immediately after the name "Phillips, Wm. S."

8. Subparagraph (8) of paragraph (b) of Appendix A is amended by inserting the names "Randall, Lavern" and "White Allen R.," in that order, immediately after the name "Cain, Leonard E."

9. Paragraph (c) of Appendix A is amended by deleting the name "Farrier, J. Merle, Eugene, Oregon" therefrom.

10. Paragraph (c) of Appendix A is amended by inserting the name "Beck, Ira Alan, Myrtle Creek, Oregon" immediately after the name "Baxter, Laurance, Springfield, Oregon," and inserting the name "Hess, Charles J., Bandon, Oregon" immediately after the name "Garland, James E., Corvallis, Oregon."

(Sec. 704, 64 Stat. 816, as amended, 50 U. S. C. App. Sup. 2154)

*Effective date.* This Amendment 9 to Ceiling Price Regulation 97 is effective August 7, 1952.

HAROLD WALSH,
*Regional Director, Region 13,*
*Office of Price Stabilization.*

AUGUST 7, 1952.

[F. R. Doc. 52-8872; Filed, Aug. 7, 1952; 11:56 a. m.]

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[Ceiling Price Regulation 143, Amdt. 1]

CPR 143—CEILING PRICES FOR CERTAIN PAPER AND PAPER PRODUCTS SOLD IN PUERTO RICO

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 1 to Ceiling Price Regulation 143 is hereby issued.

STATEMENT OF CONSIDERATIONS

Ceiling Price Regulation 143 establishes ceiling prices for certain paper and paper products sold in Puerto Rico at various levels on the basis of direct cost plus a percentage markup.

The regulation as issued was intended to allow sellers of these commodities their customary margins received prior to Korea. Subsequent investigations have disclosed that distributors of

standard wrapping paper and grocers' paper bags have traditionally received certain commissions and service allowances as part of their markup which by the provision of the regulation, as originally issued, were not to be included as part of the direct cost nor were they taken into consideration in determining the markup. This amendment allows distributors of standard wrapping paper and grocers paper bags to add commissions and service allowances to direct cost provided that the amount so added does not exceed that customarily received during the period May 24 to June 24, 1950. Distributors who did not receive any commission or service allowance during this period but instead were quoted prices to which the equivalent of a commission or service allowance had already been deducted from the invoice price may apply to the Territorial Director of the Office of Price Stabilization in Puerto Rico for permission to add that commission or service allowance to their direct cost. Any person who became a distributor after June 24, 1950 and receives a commission or service allowance, may also apply for authorization to add such commission or allowance to his direct cost.

Article 3 has been further amended to provide a single markup for sales at all levels of distribution instead of a separate markup at the distribution and wholesale level. This change is necessary in order to conform to customary business practices of sellers of standard wrapping paper and grocers bags who usually are distributors selling at both the distributor and wholesale level.

As originally issued, Article 3 of the regulation established ceiling prices for grocers and variety paper bags sold in Puerto Rico. After issuance of the regulation, it was brought to the attention of the OPS that sellers of variety paper bags in Puerto Rico normally enjoy higher markups on variety paper bags than grocers bags and shipping sacks. Accordingly, the regulation has been amended to exclude variety bags from the coverage of CPR 143. This action restores the applicability of the GCPR to sales of locally manufactured variety bags and CPR 9, Revision 1, to sales of variety bags not produced in Puerto Rico.

In addition, certain of the provisions of Ceiling Price Regulation 143 are amended for the purpose of clarification. Section 1.7 has been revised in order to specify in greater detail the notification requirements when the item sold bears one overall markup for all levels of distribution and in cases where there is one markup for each level.

A new paragraph has been added to section 1.9 providing a fourth method for determining ceiling prices for different cost inventories. This method provides that if a seller purchases a commodity under separate invoices at different prices and has in his inventory identical items at different costs, the ceiling price for the entire inventory of identical items must be determined on the basis of the last delivered cost, provided the units of the commodity included in the last delivered cost are not less than 33 percent of inventory on hand (including units last received) of identical commodities at date of invoice corresponding to the last delivered cost.

The notification requirement in section 2.2 has been eliminated from that section and is now included in section 1.7.

In formulating this amendment, the Director has consulted with the Territorial Industry Advisory Committee for Wrapping Paper and other industry representatives including trade association representatives and has given full consideration to their recommendations. In his judgment, the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act as amended.

AMENDATORY PROVISIONS

Ceiling Price Regulation 143 is amended in the following respects:

1. Section 1.7 is amended to read as follows:

SEC. 1.7 *Notification and posting*—(a) *Notification to purchasers, commodities subject to a single markup.* Every distributor selling, except at retail, any of the commodities covered by this regulation for which one ceiling price has been established for sales at all levels of distribution, shall, with each delivery, supply the purchaser with a statement of the ceiling price of the commodity, as follows: "The ceiling price for the sale of this commodity determined under Ceiling Price Regulation 143 is $_____ per _____". On all subsequent sales of such commodities, the price charged must not be higher than the ceiling price indicated on the sales invoice of the distributor to purchasers of such items.

(b) *Notification to purchasers, commodities having specific markups on sales at different levels.* On and after the effective date of this regulation, every person selling commodities covered by this regulation having specific markups on sales at different levels other than at retail, shall, with each delivery, supply the purchaser with a statement of the ceiling price of the commodity at the time of delivery as follows: "The ceiling price of this commodity determined under Ceiling Price Regulation 143, is $_____ per _____ on sales to wholesalers and $_____ per _____ on sales at wholesale."

(c) *Posting.* On and after the effective date of this regulation every person offering to sell any commodity covered by this regulation at retail shall display the ceiling and selling prices of such commodity in a manner plainly visible to and understandable by the purchasing public. The ceiling and selling prices may be displayed on the commodity itself or may be posted in a place in the establishment where the commodity is offered for sale.

2. Section 1.9 is amended by changing in the second sentence of the first paragraph the word "three" to read "four" and by adding a new paragraph (d) to read as follows:

(d) *Last delivered cost.* Your ceiling price must be computed on the basis of the last delivered cost, provided the units of the commodity included in the last delivered cost are not less than 33 percent of inventory on hand (including units last received) of identical commodities at date of invoice corresponding to the last delivered cost.

3. Section 2.2 is amended to read as follows:

SEC. 2.2 *Ceiling prices.* If you are a seller of wrap tissue paper, your ceiling price is the sum of the following amounts, multiplied by 1.20:

(a) The direct cost to the distributor, as defined in section 1.17 of this regulation.

(b) An amount equal to additional charges, separately itemized by the distributor's customary supplier in the invoice, for engraving and printing performed on wrap tissue paper at the request of the purchaser.

4. Paragraph (b) of section 3.1 is amended to read as follows:

(b) "Grocers paper bags" means any unbleached kraft paper bags, machine finished, containing 90 percent or more of unbleached kraft fiber, 30 pounds basis weight and up for use as grocers bags or shopping sacks.

5. Section 3.2 is amended to read as follows:

SEC. 3.2 *Ceiling prices.* (a) If you are a seller of standard wrapping paper or grocers paper bags, your ceiling price is the sum of the following amounts, multiplied by 1.23:

(1) An amount equal to the selling price of the distributor's customary supplier, less all discounts, except discounts for prompt payment, commissions, and allowances for services. The rate of commissions and allowances for services shall not exceed those customarily received during May 24 to June 24, 1950.

(2) An amount equal to charges for forwarding, ocean freight war risk, and marine insurance, actually incurred.

(3) An amount equal to excise or custom duties actually paid.

(b) The ceiling price in every case must be figured on purchases of customary quantity from a customary type of supplier.

(c) The ceiling price for purchases of non-customary quantity or from a non-customary type of supplier must be figured on the basis of the latest purchase of a customary quantity from a customary type of supplier.

(d) If you are a distributor and did not receive any commission and/or service allowance during the period May 24, 1950–June 24, 1950, but instead you were quoted prices to which the equivalent of a commission and/or service allowance had already been deducted from the invoice prices, or if you became a distributor after June 24, 1950 and receive a commission and/or allowance for service, you may file with the Territorial Director of the Office of Price Stabilization in Puerto Rico an application for authorization to include such commission and/or service allowance as part of the direct cost. This application must be signed by the applicant and must contain:

(1) The name and business address of the applicant.

(2) The percentage commission and/or service allowance which has been deducted from your invoice price during the period May 24 to June 24, 1950, or after June 24, 1950, as the case may be.

(e) You may not include such commission and/or service allowance in the computation of direct cost until notified by the Territorial Director of the Office of Price Stabilization in Puerto Rico of his approval of your application.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

*Effective date.* This amendment to Ceiling Price Regulation 143 is effective August 12, 1952.

NOTE: The reporting and record keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 7, 1952.

[F. R. Doc. 52-8875; Filed, Aug. 7, 1952; 4:00 p. m.]

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[General Ceiling Price Regulation, Supplementary Regulation 113]

## GCPR, SR 113—PRODUCERS OF ALUMINUM MILL PRODUCTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this supplementary regulation to the General Ceiling Price Regulation is hereby issued.

### STATEMENT OF CONSIDERATIONS

This supplementary regulation provides an increase in ceiling prices for primary aluminum (including pig and ingot), and aluminum mill products.

There are only three producers of primary aluminum in the United States. These are the Aluminum Company of America, the Kaiser Aluminum and Chemical Corporation, and the Reynolds Metals Company. Each of these three producers has filed an individual request with the Office of Price Stabilization for the adjustment of his ceiling prices.

The petition of the Aluminum Company of America, which was filed on July 9, 1952, requests an increase of 2¢ per pound in the price of pig aluminum and of 10 percent in the ceiling prices of ingot and aluminum mill products.

On July 18, the Kaiser Aluminum and Chemical Corporation filed an application for price relief which was later amended on July 28, 1952. The amended application requested an increase of 2.35¢ per pound in the price of pig aluminum and 12.8 percent in the price of aluminum mill products.

The Reynolds Metals Company originally requested an increase of the same magnitude as the Aluminum Company of America, but subsequently increased the amount of the requested relief approximately in line with that submitted by Kaiser.

Each of the three petitions recited various grounds as justifying the price relief requested. Each emphasized the cost increases which have occurred since the end of 1950 when the present prices were first established and the further increases which were anticipated as a result of wage negotiations which have just been concluded.

The petitions submitted by Kaiser and Reynolds referred specifically to the provisions of section 3 (b) (2) of General Overriding Regulation 29. This regulation provides for the individual adjustment of ceiling prices for essential manufacturers of essential commodities. In general, it provides that prices will be adjusted to the break-even point where the applicant's profits on his total business compare favorably with his base period experience, but that the adjustment will allow for a reasonable profit margin where an applicant's over-all profits compare unfavorably with his base period experience.

Section 3 (b) (2) of the regulation, however, provides for ceiling price adjustments beyond the break-even level regardless of the profit position in special cases where this is necessary in the interests of national defense. This section reads in part as follows:

(2) If the Director of Price Stabilization deems it necessary, in order to promote the national defense, he may establish an adjusted ceiling price which includes an amount over your "total unit operating cost", despite the fact that your "current rate of return on net worth" equals or exceeds 85 percent of your "average rate of return on net worth in your normal base period."

On July 24, 1952, the Administrator of Defense Production Administration sent a letter to the Director of Price Stabilization describing in detail the importance of maintaining and increasing the supply of aluminum for the defense program. On the basis of the information contained in this letter, the Director finds that aluminum qualifies under the criteria established in section 3 (b) (2) and that price adjustment adequate to maintain a reasonable profit is necessary in order to promote the national defense.

GOR 29 was intended to permit relief in appropriate cases to individual manufacturers. In the case of aluminum, however, there are only three producers of primary metal, and the prices charged by all three have always been uniform. If varying degrees of relief were separately provided for each of these companies under the provision of GOR 29, serious market disruption would be inevitable. Moreover, the conditions warranting relief are similar in the case of all three companies. Consequently, the Director of Price Stabilization has determined that it would be appropriate in this case to consider all three applications together and to issue a single regulation providing uniform relief for the entire industry.

The three producers of primary aluminum sell only a minor portion of their output in the form of aluminum pig and ingot. The bulk is sold in the form of mill products. While there are only three producers of primary aluminum, there are many manufacturers who produce the same kinds of aluminum mill products as the three primary producers. It would be clearly inappropriate to adjust the prices of aluminum mill products sold by the primary producers without providing similar adjustments at the same time for the non-integrated producers. Consequently, this supplementary regulation is not limited to the three primary producers but provides an adjustment of ceiling prices for non-integrated producers as well.

In determining the amount of relief appropriate under provisions of section 3 (b) (2) of GOR 29, the general policy of OPS has been to restore as nearly as possible the dollar-and-cents profits per unit of product which prevailed before the Korean outbreak. This same standard has therefore been applied in the present case.

Each of the three primary producers has submitted data showing the increase in its costs and prices since the period preceding the Korean outbreak, and the further increases anticipated as a result of the wage negotiations just concluded. While the cost increases shown are not entirely uniform, they are reasonably consistent. On the basis of the figures submitted, the Director of Price Stabilization has determined that an increase of 1¢ per pound in the ceiling price of aluminum pig, and ingot and of 5 percent in the ceiling prices of alloy ingot and aluminum mill products is required to restore the general level of unit profits prevailing before Korea. While the required adjustments for individual products do not in all cases conform with this general pattern, it is important as a practical matter to maintain insofar as possible the existing relationships between the prices of pig, ingot and the various kinds of aluminum mill products. In the judgment of the Director of Price Stabilization the adjustments provided in this supplementary regulation are such as to maintain appropriate price relationships while granting the over-all amount of relief required.

Although the adjustments provided in this regulation were based upon data submitted by the three primary producers only, it was urgent that this action be taken very promptly in order to ensure an adequate supply of aluminum and aluminum products for the defense program. It was impossible to take the time which would have been required to obtain comparable cost data from non-integrated producers. While it is believed that the adjustments here provided are equitable as to such producers as well as to the three integrated producers, the Office of Price Stabilization is, of course, prepared at any time to review the position of the nonintegrated producers in order to determine whether any further action may be required.

In the judgment of the Director of Price Stabilization the provisions of this supplementary regulation are generally fair and equitable and are necessary to effectuate the purpose of the Defense Production Act of 1950, as amended.

In the formulation of this supplementary regulation there has been consulta-

tion with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Ceiling prices.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816 as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This supplementary regulation increases the ceiling prices as determined under the General Ceiling Price Regulation for the aluminum and aluminum alloy products listed herein. This supplementary regulation applies only to sales by the producers of these products. Sales by resellers of these products are established under Ceiling Price Regulation 67.

SEC. 2. *Ceiling prices.* (a) *Primary aluminum pig, primary aluminum alloy pig and primary aluminum ingot.* If you are a producer of primary aluminum pig, primary aluminum alloy pig, or primary aluminum ingot, your ceiling price per pound for these products is your ceiling price as established under the General Ceiling Price Regulation plus one cent.

(b) *Other listed aluminum products.* If you are a producer of the aluminum products listed in Table A, your ceiling price for these products is your ceiling price determined under the General Ceiling Price Regulation plus five percent of your ceiling base price and extras as determined under the General Ceiling Price Regulation. You may round any ceiling price so determined so that it will be expressed in the nearest cent or fraction of a cent you normally employ. If you elect to round any such ceiling price you must round all such ceiling prices so as to reflect decreases as well as increases.

TABLE A

Primary aluminum alloy ingot (including billets).
Sheet, coil, plate, blanks, circles and foil.
Wire, rod and bar (including structurals).
Extrusions (including shapes, tubing and pipe).
Tubing, drawn and welded.
Electrical conductor cables, bare (ACSR) and all aluminum).
Roofing and siding not fabricated beyond the forming operation.
Aluminum powder and paste.
Roll formed shapes.

*Effective date.* This supplementary regulation is effective as of August 4, 1952.

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 6, 1952.

[F. R. Doc. 52-8814; Filed, Aug. 6, 1952; 4:46 p. m.]

## Chapter IV—Salary and Wage Stabilization, Economic Stabilization Agency

[General Wage Regulation 21, Interpretations]

INTERPRETATIONS OF GENERAL WAGE REGULATION 21

QUESTIONS AND ANSWERS ON GENERAL WAGE REGULATION 21

These questions and answers illustrate various provisions of pension plans and profit-sharing plans of the deferred compensation type that conform to the requirements of General Wage Regulation 21 and will be approved upon initial review. They also illustrate provisions which under current policies of the Board generally will be approved upon review although they do not meet the requirements of General Wage Regulation 21. The illustrations contained below are not exhaustive. Other provisions in plans which the Board finds to be within the spirit of the regulation and not unstabilizing will also be approved.

1. Q. How may a pension plan or a profit-sharing plan of the deferred compensation type be established or amended?

A. Parties may establish or amend a pension plan or profit-sharing plan of the deferred compensation type only in accordance with the standards and provisions of General Wage Regulation 21.

2. Q. What procedure must a petitioner (employer and union, if any) follow to obtain Board approval of a pension or profit-sharing plan under General Wage Regulation 21?

A. Form 502 should be filed directly with Wage Stabilization Board, Washington 25, D. C. These forms may be obtained at the local offices of the Wage-Hour Division, United States Department of Labor. Receipt of petitions will be acknowledged by the Wage Stabilization Board. Plans may be put into operation 30 days after the date of the acknowledgment letter unless within that period the petitioner receives a notification to the contrary. The effective date of the plan may be made retroactive to the extent permitted by Question 20, below. If in its acknowledgment letter the Board specifically approves the plan it may be put into effect without waiting the prescribed 30 days.

Resolution 93 provides a procedure for obtaining approval of plans covering employees of more than one employer.

PENSION PLANS

3. Q. Will the Board disapprove pension plans providing for a normal retirement age for any employees at less than age 65?

A. Under its current policies the Board will not disapprove a pension plan only because it provides that the normal retirement age for female employees is age 60.

4. Q. May a pension plan provide permanent and total disability benefits?

A. Yes.

5. Q. May a pension plan filed under General Wage Regulation 21 provide for retirement prior to normal retirement age?

A. Yes, provided that under the plan benefits for an employee who retires prior to normal retirement age will be reduced:

(a) in accordance with section 2 (a) (1), which requires that the benefits for an employee who retires before normal retirement age, but does not receive pension payments until normal retirement age, shall be reduced in an amount which takes account of the additional years of service the employee would have accrued had he remained in service until normal retirement age. However, if the plan provides for maximum benefits after a specified number of years of credited service, section 2 (a) (1) does not require a reduction in the benefits for an employee who retires before normal retirement age and who at the time of retirement has acquired the maximum number of years of credited service, and

(b) in accordance with section 2 (a) (2), which requires that benefits for an employee who retires before normal retirement age and receives pension payments commencing at some time before normal retirement age (except in the case of early retirement for permanent and total disability) must be reduced in accordance with (a) above and must be further reduced actuarially to take into account the fact that he receives benefits over a longer period of time.

The following chart illustrates the reductions required by sections 2 (a) (1) and 2 (a) (2). Assume that a plan provides a maximum pension of $100 per month to employees with 25 years of credited service who retire at or after age 65.

| Age at which credited service starts | Monthly benefit | | |
|---|---|---|---|
| | Retirement at age 65 | Retirement at age 60 | |
| | Benefits payable | Benefits payable at age 65 | Benefits payable at age 60 [1] |
| 25 or earlier | $100 | $100 | $66.67 |
| 40 | 100 | 80 | 53.33 |
| 45 | 80 | 60 | 40.00 |

[1] Assumes actuarial equivalent to be 66⅔ percent.

(It is noted that under section 2 (a) (1) the amount which an employee who retires early may receive at age 65 is computed by dividing benefits he would receive if he retired at age 65 by years of credited service he would have had had he continued in the service of the employer or by years of credited service necessary to obtain maximum benefits, whichever is lower, and multiplying this quotient by years of credited service at early retirement age or by years of credited service necessary to obtain maximum benefits, whichever is lower.)

6. Q. Why are unit benefit plans excepted from the requirement of section 2 (a) (1) that retirement benefits for an employee who retires prior to normal retirement age shall be reduced in an amount which takes account of the addi-

tional years of service the employee would have accrued had he remained in service until normal retirement age?

A. Under a unit benefit plan, for each year of credit service an employee's retirement benefit is increased by either a fixed amount or by a fixed percentage of compensation (compensation may be defined as the average annual compensation during the entire period of credited service or during some predetermined portion of credited service). Since under such plan the amount of the retirement benefit is dependent on the number of years of credited service acquired by the employee, the reduction contemplated by section 2 (a) (1) of General Wage Regulation 21 automatically results from the normal operation of such plan. Thus a further reduction under section 2 (a) (1) is not required with respect to benefits for an employee who retires before normal retirement age, but does not receive benefits until normal retirement age. However, if the employee receives benefits prior to normal retirement age the reduction required by section 2 (a) (2) must be made.

7. Q. Does section 2 (a) (1) require a reduction in the retirement benefit for an employee who retires prior to normal retirement age under a money purchase plan?

A. A money purchase plan is a pension plan under which an employee receives retirement benefits derived from contrbutions each year for his account, which contributions are either a fixed amount or a fixed percentage of annual compensation of the employee. Since under such plan contributions and therefore benefits are directly dependent upon the number of years of credited service, the reduction contemplated by section 2 (a) (1) of General Wage Regulation 21 automatically results from the normal operation of such plan. Thus a further reduction under section 2 (a) (1) is not required with respect to benefits for an employee who retires before normal retirement age. However, if the employee receives benefits prior to normal retirement age the reduction required by section 2 (a) (2) must be made.

8. Q. Will the Board disapprove pension plans which provide permanent and total disability benefits which are not reduced in accordance with section 2 (a) (1)?

A. The Board under its current policies will not disapprove a pension plan only because it provides for permanent and total disability benefits which are not reduced in accordance with section 2 (a) (1).

9. Q. May a pension plan filed under General Wage Regulation 21 provide death benefits?

A. (a) Although the primary purpose of a pension plan must be to provide retirement benefits, a pension plan may provide benefits upon death of an employee prior to retirement in the following amounts:

(1) an amount not larger than 100 times the monthly age benefit which the individual employee would receive upon retirement at the normal retirement age, or

(2) for plans which provide benefits through insurance contracts, the amount permitted under (1) above, the total amount of premiums paid with respect to the account of the individual employee, or the cash value credited to the employee whichever is larger.

(b) A pension plan may provide benefits upon death of an employee after retirement consistent with the amount of death benefit provided in the same plan for death of an employee prior to retirement.

(c) The Board will consider the approvability of provisions in pension plans which provide death benefits in amounts other than amounts permitted under (a) and (b) above on the merits of the individual case. The Board will take into consideration the amount of death benefits provided under any other type of plan which may be in effect for the employees covered by the pension plan.

10. Q. Is General Wage Regulation 21 applicable to contributory pension plans and profit-sharing plans of the deferred compensation type?

A. Yes, except that benefits derived wholly from employee contributions plus accrued interest on such contributions may be paid without regard to the provisions of General Wage Regulation 21.

11. Q. Section 2 (b) requires that all benefits except death benefits shall be payable at least over the lifetime of the employee. Must the benefits be paid in equal installments?

A. All benefits except death benefits must be paid in equal installments extending at least over the lifetime of the employee; however under its current policies the Board will not disapprove a pension plan only because it provides that in the event of early retirement the benefit (after being reduced in accordance with sections 2 (a) (1) and 2 (a) (2)) may be distributed over the lifetime of the employee in such manner as to provide level retirement benefits if combined with Social Security benefits.

The Board will not disapprove a pension plan only because permanent and total disability benefits are computed on a different basis than age retirement benefits, or only because the plan provides that permanent and total disability benefits shall be limited to the duration of the disability or until attainment of the normal retirement age at which time the employee will receive the normal retirement benefit.

12. Q. Does General Wage Regulation 21 place any restrictions on the payment of benefits to an employee whose employment terminates prior to retirement?

A. Benefits for employees whose employment terminates prior to retirement, derived from employer contributions, shall not carry a cash surrender value and shall be deferred to the normal retirement date and then must be paid in equal installments over the employees' lifetime. However, if the pension plan permits retirement prior to normal retirement age in accordance with sections 2 (a) (1) and 2 (a) (2) the Board will not disapprove such a plan only because it also provides for the payment of benefits to an employee whose employment terminates prior to retirement at the early retirement age permitted in the plan.

13. Q. Will the Board disapprove plans which provide for lump sum payment where the monthly benefit is very small?

A. Under current policies the Board will not disapprove a pension plan only because it provides for payment of benefits over a period of less than the employee's lifetime, or in a lump sum, if the benefit would amount to $10 or less per month if payable for life.

PROFIT-SHARING PLANS

14. Q. Will the Board approve a profit-sharing plan which provides that retirement benefits shall be payable for life rather than for at least 10 years?

A. Yes.

15. Q. Since section 3, as amended, requires that the retirement age under a profit-sharing plan shall be age 65, will the Board therefore disapprove profit-sharing plans providing for retirement age at less than age 65?

A. Under its current policies the Board will not disapprove a profit-sharing plan only because it provides for retirement of female employees at age 60.

16. Q. In order to comply with the requirements of Section 3, as amended, must benefit payments under profit-sharing plans of the deferred compensation type be in equal installments over the 10-year period?

A. Yes. However, under current policies the Board will not disapprove a profit-sharing plan only because it provides that if benefits would amount to less than $25 per month over the 10-year period, payments at a rate of $25 per month may be made over a lesser period.

17. Q. May a profit-sharing plan filed under General Wage Regulation 21 provide death benefits to an employee's beneficiary in the event of the employee's death?

A. (a) In the event of an employee's death prior to his retirement, a profit-sharing plan may provide for a death benefit in an amount not greater than the employee's share in the profit-sharing fund.

(b) In the event of death of an employee after retirement, a profit-sharing plan may provide for a death benefit in an amount not to exceed the employee's share in the profit-sharing fund less the total amount of retirement benefits paid to the employee from date of retirement until the time of his death.

PENSION AND PROFIT-SHARING PLANS

18. Q. How do the requirements in General Wage Regulation 21 for Bureau of Internal Revenue approval of pension and profit-sharing plans affect operative dates of such plans?

A. Parties may file Form 502 and the Wage Stabilization Board may approve a pension or profit-sharing plan of the deferred compensation type before Bureau of Internal Revenue approval is obtained.

Pension plans may be put into effect upon approval by the Wage Stabilization Board, and before Bureau of Internal Revenue approval has been obtained. In the event the Bureau of Internal Revenue subsequently notifies the employer

that the plan does not meet the requirements of the Internal Revenue Code, employer contributions must cease from the date of receipt of such notification. On the other hand, profit-sharing plans, although approved by the Wage Stabilization Board, may not be put into effect before approval of the plan by the Bureau of Internal Revenue is obtained.

19. Q. Under what circumstances may a pension plan or a profit-sharing plan be made retroactive?

A. Pension and profit-sharing plans may be made effective to a date not earlier than the beginning of the employer's fiscal year in which any of the following dates occurred: (a) The expiration date of the prior contract; (b) the date upon which the contract was reopened pursuant to its terms; (c) if there was voluntary reopening, the date upon which negotiations began pursuant to the agreement to reopen; (d) if there was no prior contract, the date of certification or recognition of the union; (e) the same date as the plan was put into effect for another appropriate employee unit, provided the employees in both units traditionally and consistently received adjustments in compensation effective the same date; (f) the date that the plan was formally determined and communicated to the employees.

20. Q. Where an employer has established a plan under the provisions of General Wage Regulation 6, what action may be taken to eliminate the cost of such plan from the amount charged against the permissible general increase under General Wage Regulation 6?

A. Under section 7, a petition must be filed with the Wage Stabilization Board, Washington 25, D. C., on Form 502, describing the provisions of the plan, with an additional statement requesting the elimination of the charge under General Wage Regulation 6. The statement should indicate the amount which was offset under General Wage Regulation 6 at the time the plan was instituted.

NATHAN P. FEINSINGER,
*Chairman, Wage Stabilization Board.*

JULY 29, 1952.

[F. R. Doc. 52-8868; Filed, Aug. 7, 1952; 11:26 a. m.]

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## Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 1, Amdt. 10]

[Rent Regulation 2, Amdt. 9]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

PETITION FOR SECURITY DEPOSIT

Effective August 8, 1952, Rent Regulation 1 and Rent Regulation 2 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 5th day of August 1952.

ED DUPREE,
*Acting Director of Rent Stabilization.*

1. Section 73 (g) of Rent Regulation 1 is amended to read as follows:

(g) *Petition for security deposit*—(1) *Deposits to secure the return of certain movable articles.* Notwithstanding the preceding provisions of this section, any landlord may petition for an order authorizing the demand and receipt of a deposit to secure the return of movable articles. If the landlord shows that he has a special need therefor, the Director may enter an order authorizing a security deposit, not in excess of ten dollars, to secure the return of the movable articles specified in the order.

(2) *Deposit based on prior rental practices.* Notwithstanding the preceding provisions of this section, any landlord at the time the housing accommodations are vacant may petition for an order authorizing the demand and receipt of a security deposit not in excess of one month's rent. If the landlord establishes that on the maximum rent date he had a practice in the structure in which the housing accommodations are situated of collecting a security deposit for a certain specific purpose or that there was on the maximum rent date a practice in the community where the housing accommodations are situated of collecting a security deposit for a certain specific purpose in connection with the rental of comparable housing accommodations, the Director may enter an order authorizing a security deposit not in excess of one month's rent for similar purposes which shall be specified in the order.

2. Section 73 (e) of Rent Regulation 2 is amended to read as follows:

(e) *Petition for security deposit*—(1) *Deposits to secure the return of certain movable articles.* Notwithstanding the preceding provisions of this section, any landlord may petition for an order authorizing the demand and receipt of a deposit to secure the return of movable articles. If the landlord shows that he has a special need therefor, the Director may enter an order authorizing a security deposit, not in excess of ten dollars, to secure the return of the movable articles specified in the order.

(2) *Deposit based on prior rental practices.* Notwithstanding the preceding provisions of this section, any landlord at the time the room is vacant may petition for an order authorizing the demand and receipt of a security deposit not in excess of one month's rent. If the landlord establishes that on the maximum rent date he had a practice in the structure in which the room is situated of collecting a security deposit for a certain specific purpose or that there was on the maximum rent date a practice in the community where the room is situated of collecting a security deposit for a certain specific purpose in connection with the rental of comparable housing accommodations, the Director may enter an order authorizing a security deposit not in excess of one month's rent for similar purposes which shall be specified in the order.

[F. R. Doc. 52-8727; Filed, Aug. 7, 1952; 8:46 a. m.]

[Rent Regulation 3, Amdt. 9]

[Rent Regulation 4, Amdt. 3]

RR 3—HOTELS

RR 4—MOTOR COURTS

PETITION FOR SECURITY DEPOSIT

Effective August 8, 1952, Rent Regulation 3 and Rent Regulation 4 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 5th day of August 1952.

ED DUPREE,
*Acting Director of Rent Stabilization.*

1. A new paragraph (c) is added to section 45 of Rent Regulation 3, reading as follows:

(c) *Petition for security deposit.* Notwithstanding the provisions of section 44 and the preceding provisions of this section, any landlord at the time the room is vacant may petition for an order authorizing the demand and receipt of a security deposit not in excess of one month's rent. If the landlord establishes that on the maximum rent date he had a practice in the structure in which the room is situated of collecting a security deposit for a certain specific purpose or that there was on the maximum rent date a practice in the community where the room is situated of collecting a security deposit for a certain specific purpose in connection with the rental of comparable housing accommodations, the Director may enter an order authorizing a security deposit not in excess of one month's rent for similar purposes which shall be specified in the order.

2. Section 45 of Rent Regulation 4 is amended to read as follows:

SEC. 45. *Petition for security deposit*—(a) *Deposits to secure the return of certain movable articles.* Notwithstanding the provisions of section 44, any landlord may petition for an order authorizing the demand and receipt of a deposit to secure the return of movable articles. If the landlord shows that he has a special need therefor, the Director may enter an order authorizing a security deposit, not in excess of $10 to secure the return of the movable articles specified in the order.

(b) *Deposit based on prior rental practices.* Notwithstanding the provisions of section 44, any landlord at the time the room is vacant may petition for an order authorizing the demand and receipt of a security deposit not in excess of one month's rent. If the landlord establishes that on the maximum rent date he had a practice in the structure in which the room is situated of collecting a security deposit for a certain specific purpose or that there was on the maximum rent date a practice in the community where the room is situated of collecting a security deposit for a certain specific purpose in connection with the rental of comparable housing accommodations, the Director may enter an order authorizing a security deposit not in excess of one month's rent for similar purposes which shall be specified in the order.

[F. R. Doc. 52-8728; Filed, Aug. 7, 1952; 8:47 a. m.]

# TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

## Chapter I—Veterans' Administration

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

#### SUBPART E—VETERANS READJUSTMENT ASSISTANCE ACT OF 1952

A new subpart E is added as follows:

#### SUBPART E—VETERANS READJUSTMENT ASSISTANCE ACT OF 1952

Sec.



AUTHORITY: §§ 21.2000 to 21.2309 issued under Pub. Law 550, 82d Cong. (66 Stat 663).

§ 21.2000 *Statement of policy.* The statement of policy as contained in Title I of the Veterans' Readjustment Assistance Act of 1952 (Public Law 550, 82d Cong.) is as follows:

The Congress of the United States hereby declares that the veterans' education and training program created by this act is for the purpose of providing vocational readjustment and restoring lost educational opportunities to those service men and women whose educational or vocational ambitions have been interrupted or impeded by reason of active service in the Armed Forces during a period of national emergency and for the purpose of aiding such persons in attaining the educational and training status which they might normally have aspired to and obtained had they not served their country; and that the home, farm, and business-loan benefits, the unemployment compensation benefits, the mustering out payments, and the employment assistance provided for by this Act are for the purpose of assisting in the readjustment of such persons from military to civilian life.

EDUCATIONAL AND VOCATIONAL ASSISTANCE

§ 21.2005 *Definitions.* (a) For the purposes of Public Law 550, 82d Congress, the following definitions apply:

(1) The term "basic service period" means the period beginning on June 27, 1950, and ending on such date as shall be determined by Presidential proclamation or concurrent resolution of the Congress.

(2) The term "eligible veteran" means any person who is not in the active service in the Armed Forces and who:

(i) Has served in the active service in the Armed Forces at any time during the basic service period,

(ii) Has been discharged or released from such active service under conditions other than dishonorable as defined in § 3.64 of this chapter, and

(iii) Has served in the active service in the Armed Forces for 90 days or more (exclusive of any period he was assigned by the Armed Forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman at one of the service academies), or has been discharged or released from active service by reason of an actual service-incurred injury or disability.

(3) The term "program of education or training" means any single unit course or subject, any curriculum, or any combination of unit courses of subjects, which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(4) The term "course" means an organized unit of subject matter in which instruction is offered within a given period of time or which covers a specific amount of related subject matter for which credit toward graduation or certification is usually given.

(5) The term "dependent" means:

(i) A child (as defined in paragraph VI of Veterans Regulation Numbered 10, as amended) of an eligible veteran.

(ii) A parent (as defined in paragraph VII of Veterans Regulation Numbered 10, as amended) of an eligible veteran, if the parent is in fact dependent upon the veteran, and

(iii) The wife of an eligible veteran, or, in the case of an eligible veteran who is a woman, her husband if he is in fact dependent upon the veteran.

(6) The term "educational institution" means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers college, college, normal school, professional school, university, scientific or technical institution, or other institution furnishing education for adults.

(7) The term "training establishment" means any business or other establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprentice committee, or the Bureau of Apprenticeship established in accordance with Public Law 308, 75th Congress, or any agency of the Federal Government authorized to supervise such training.

(8) The term "Armed Forces" means the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard of the United States.

(9) The term "State" means the several States, the Territories and posses-

sions of the United States, and the District of Columbia.

(10) The term "Administrator" means the Administrator of Veterans' Affairs.

(11) The term "Commissioner" means the United States Commissioner of Education.

(12) The term "Law" wherever it appears in subpart E of Part 21 means Title II of the Veterans' Readjustment Assistance Act of 1952. (Public Law 550, 82d Congress, approved July 16, 1952.)

(13) The term "delimiting date" means August 20, 1954, or the date 2 years after the veteran's discharge or release from active service, whichever is the later.

ELIGIBILITY

§ 21.2010 *Entitlement to education or training generally.* (a) Any person shall be entitled to education or training, under the conditions and within the limitations hereinafter specified, who:

(1) Had active service in the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard at any time during the basic service period;

(2) Has been discharged or released from such active service under conditions other than dishonorable;

(3) Performed active service for 90 days or more excluding any period during which he was assigned to a civilian institution for the pursuit of a course of education or training substantially the same as established courses offered by the institution to civilians and exclusive of any period of assignment as a cadet or midshipman at one of the Service academies, or was discharged or released from active service after fewer than 90 days where his discharge or release was by reason of an actual service-incurred injury or disability; and

(4) Is not in the active service in the Armed Forces.

§ 21.2011 *Determinations respecting active service requirements*—(a) *Evidence bearing on active service.* The length and character of military service shall be determined on the basis of official evidence from the appropriate Service Department which may be:

(1) The original, a certified or a photostatic copy of DD Form 214, Report of Separation, showing discharge or release from active duty.

(2) An official report from the Service Department received in response to an appropriate request on VA Form 3101 Series.

(3) A true, certified or photostatic copy of discharge or release from active duty.

(b) *Questionable discharges.* In all cases where the discharge is neither honorable nor dishonorable, and it is not clear whether the circumstances under which the veteran was discharged or released from active duty might bar eligibility to education or training, the question will be referred by memorandum to the adjudication division (regional office) or claims division, veterans claims service (central office) for appropriate determination, prior to initiating further action toward the issuance of a Certificate for Education and Training.

(c) *Discharges for disability.* When an application for education or training is received and the veteran had fewer than 90 days' service as defined in paragraph (d) of this section, but was discharged for disability, the vocational rehabilitation and education activity will refer the facts in the case to the adjudication division (regional office cases) or the claims division, veterans' claims service (central office cases) for development of disability service data and a formal memorandum rating as to whether such discharge was by reason of an actual service-incurred injury or disability.

(d) *Computation of 90-day service requirement.* The 90 days or more of active service requirement will be met if the 90 days were continuous calendar days extending into or beyond the basic service period. The requirements as to active service for a total of 90 days or more may be satisfied by two or more periods of service wholly or partly within the basic service period if all were terminated under conditions other than dishonorable.

(e) *Exclusion from active service time because of military assignments to civilian institutions.* For the purpose of the required deduction from active service credit by reason of assignments by the Armed Forces to civilian institutions, a "civilian institution" shall mean any school, college or university, public or private, providing education for adults, including business, trade, vocational and technical schools other than an institution organized and operated solely for the purpose of providing education to personnel in the Armed Forces. Any course for which a service person was assigned by the Armed Forces in such a civilian institution will meet the definition "substantially the same as established courses offered to civilians" if it was a course within the regularly prescribed and established program or curriculum of the school—whether or not a regular academic degree or certificate was conferred—and notwithstanding the inclusion or exclusion of certain required or elective subjects or curricular changes or deviations incident to the military duties or assignments of such service person.

§ 21.2012 *Commencement; time limitations*—(a) *Initiation of program.* The veteran must actually commence the active pursuit of the approved program of education or training not later than his delimiting date, i. e. enroll in and begin the course. A program to be pursued exclusively by correspondence study will be held to have been initiated (commenced) when the first lesson has been transmitted to the veteran by the institution.

(b) *Continuous pursuit.* There are no requirements as to continuous pursuit of a program of education or training as to any period prior to the veteran's delimiting date. However, on and after his delimiting date a veteran who, prior to the delimiting date, has commenced pursuit of his approved program must pursue his program continuously to completion, except that he may suspend the pursuit of his program for a period or for periods of not more than 12 consecutive months in length without Veterans' Administration approval, and without limitation as to the number of such suspensions. If a veteran does suspend the pursuit of his program at any time for a period in excess of 12 consecutive months he may resume the pursuit of his program only upon Veterans' Administration approval based upon a finding by the Veterans' Administration that the suspension for the portion of such period in excess of 12 consecutive months was occasioned by conditions beyond the veteran's control. The burden of proof in this matter shall be upon the veteran and in any case he will be required to establish by competent and acceptable evidence that the suspension for such period was necessitated by conditions over which he had no control.

§ 21.2013 *Expiration of all education and training.* (a) No education or training shall be afforded to any individual veteran beyond a date 7 years following the end of the basic service period, or the date 7 years after his discharge or release from active service, whichever is the earlier.

(b) The date of discharge or release from active service means the date of discharge or release from the last period of active service, any part of which occurs during the basic service period.

§ 21.2014 *Duration of veteran's education or training*—(a) *Computation of entitlement.* Each eligible veteran shall have a period of basic entitlement to education or training under Public Law 550, 82d Congress, measured in months and days (or the equivalent thereof in part-time training). The basic entitlement shall be computed by multiplying one and one-half times the duration of the veteran's active service, whether performed in one or more active duty assignments during the basic service period. In computing the duration of his active service, the following periods of time will be excluded:

(1) The extent of any period or periods during which he was assigned by the Armed Forces to a civilian institution for a course of education or training which was substantially the same as established courses offered by the institution to civilians.

(2) The extent of any period or periods during which he was a cadet or midshipman at one of the Service Academies (United States Military Academy, West Point, New York; United States Naval Academy, Annapolis, Maryland; United States Coast Guard Academy, New London, Connecticut).

(3) The extent of any period or periods of agricultural, industrial, or indefinite furlough; time under arrest in the absence of acquittal; time for which the individual was determined to have forfeited pay by reason of absence without leave, and time spent in desertion or while undergoing sentence of court martial. Time lost through intemperate use of drugs or alcoholic liquor or through disease or injury the result of person's

own misconduct shall not be excluded in such computation.

(b) *Limitations and extensions.* (1) Notwithstanding the length of basic entitlement computed as provided in paragraph (a) of this section, the period of time during which education or training may be pursued under Public Law 550, 82d Congress, shall not exceed 36 months in any case, except where extension of entitlement is in order under subparagraph (3) of this paragraph, and in such event entitlement will terminate at the end of such period of extension.

(2) Except for the limit of any period of such extension determined to be in order under subparagraph (3) of this paragraph, the aggregate of time in pursuit of education or training under Public Law 550, 82d Congress, plus time previously expended in pursuit of training under Public Law 16, 78th Congress, as amended, or Public Law 894, 81st Congress, as amended, or Public Law 346, 78th Congress, as amended, or any combination thereof, shall not exceed 48 months.

(3) Whenever the period of entitlement to education or training of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester and after a major part of such quarter or semester has expired, such period shall be extended to the termination of such unexpired quarter or semester. In all other courses offered by educational institutions, except flight courses and correspondence courses, whenever the period of eligibility ends after a major portion of the course is completed such period may be extended either (i) to the end of the course or (ii) for 9 weeks, whichever is the lesser period. In a correspondence course, when the period of entitlement ends after a major portion of the course is completed such period of entitlement will be extended to the end of the particular unit course in which the veteran is enrolled or for a period of nine weeks, whichever is lesser. In a flight training course, where the veteran's period of entitlement is exhausted after completion of a major portion of the course, his period of entitlement will be extended to the end of the course or for the total additional amount of instruction that $78.75 will provide, whichever is the lesser.

(4) In apprentice or other training on-the-job courses entitlement will not be extended under any circumstances.

(5) For the purposes of these provisions the following definitions will apply:

(i) "Quarter" means the division of the school year constituting usually a period of from 10 to 13 weeks in institutions operating on a quarterly basis.

(ii) "Semester" means the period ordinarily of from 15 to 19 weeks in institutions operating on a semester basis.

(iii) "Summer quarter" (term or session) means the whole of the summer period of instruction specified for the course in which the veteran is pursuing education or training, without regard to any divisions of such a period which may be made by the institution for administrative or other purposes.

(iv) "Major part of such quarter or semester" means more than one-half of such a period, in point of time, and the measurement of the major part of such a quarter or semester will be adjudicated in the individual cases on the basis of the beginning and ending dates of the quarter or semester as specified by literature of the institution for the particular course in which the veteran is enrolled.

(v) A major portion of a flight course will have been completed when the veteran has received instruction in more than half of the average number of flight hours comprising the course.

(vi) As to correspondence courses the major portion of the course will be considered completed when more than one-half of the lessons comprising the course have been serviced by the institution.

(vii) A major portion of a course offered by an educational institution not organized on a quarter or semester basis—excluding flight courses and correspondence courses—will have been completed when more than one-half of the certified length of the course, in months, weeks or hours, as applicable, has been completed.

(c) *Charges against and exhaustion of entitlement*—(1) *General.* Charges against a veteran's period of entitlement—except where flight training is involved—will be made in terms of months and days for periods during which the veteran is carried in a training status. The period to be charged will be determined by subtracting the calendar date on which the veteran commenced training from the ending calandar date of the certified period of enrollment. If, after dates are expressed in months and days, it becomes necessary to "borrow" a month to permit a subtraction of days, 30 days will be considered a month. In order to account for both the beginning and ending dates of the certified period of enrollment, one day will be added to the result obtained. If an interruption or discontinuance occurs at a date prior to the ending date of the certified period of enrollment, such date of interruption or discontinuance will be substituted as the minuend in the subtraction made to determine the charge against the veteran's entitlement, and the necessary adjustments in the entitlement accounting record will be made as appropriate. Where a course is pursued on a part-time basis, the resulting period of months and days obtained by subtraction will be multipled by the appropriate part-time fraction. A fraction of more than one-half day in the final result will be counted as 1 day. A fraction of one-half day or less will be disregarded. For the purpose of determining the aggregate maximum of 48-months training stipulated in paragraph (b) (2) of this section, time expended in training under other laws will be computed according to these formulae except that in computing time expended in pursuit of training under Public Law 16, 78th Congress, as amended, or Public Law 894, 81st Congress, as amended, there shall be excluded the period for which subsistence allowance is payable after determination of employability. (Par. 3, Part VII, Veterans Regulation 1 (a), as amended.) (38 U. S. C. ch. 12.)

(2) *Flight training courses.* A veteran pursuing a flight training course will have charged against his entitlement one day for each $1.25 which is paid to him as an education and training allowance. This entitlement charge will be in addition to all other proper entitlement charges on account of his pursuit of education or training other than flight training.

(i) To arrive at the charge against entitlement for the pursuit of a flight training course the following formula will be employed:

(*a*) Divide the amount payable as education and training allowance by $1.25 to obtain the number of days for which entitlement will be charged. Divide the result obtained by 30.4 to convert the days into months and days. This entitlement charge will be assessed in the beginning—that is, upon receipt of certification of the veteran's entrance into the course and will be premised at that time upon the basis of 75 per centum of the established charge for the courses which non-veteran enrollees in the same flight course are required to pay for tuition. In the event of interruption of the course prior to completion or upon completion of the course any necessary adjustments in entitlement charges will be made based upon the actual amount which has been paid to the veteran as an education and training allowance.

(3) *Correspondence courses.* In the case of any veteran who is pursuing a program of education or training exclusively by correspondence, one-fourth of the elapsed time in following such program of education or training shall be charged against the veteran's period of entitlement. Elapsed time will be computed from the date of enrollment to the date the last lesson was serviced by the institution.

§ 21.2015 *Considerations respecting training under other laws administered by the Veterans' Administration*—(a) *Training under Public Law 550, 82d Congress, following training under Part VII or Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12).* Where a veteran who has pursued training under Part VII or Part VIII applies for education or training under this law, the period of any entitlement when added to the total period that such veteran pursued training under Part VII or Part VIII shall not exceed 48 months except as provided in § 21.2014 (b).

(b) *Training under Part VII, Veterans Regulation 1 (a), following training under Public Law 550, 82d Congress.* (1) For the purpose of preventing the pyramiding of benefits a veteran who enters, continues to pursue or resumes training under this law after need for vocational rehabilitation has been established will be limited to a total period of training under both the law and Part VII which will not exceed:

(i) The time that normally would have been required to train the veteran to employability in the objective selected had he chosen training under Part VII when he became eligible therefor; or

(ii) The total of the veteran's original entitlement under this Law, whichever is the greater.

(2) When a veteran while in training or during a period of interruption for a valid reason under this Law becomes eligible under Part VII and is determined to be in need of vocational rehabilitation, there shall be prescribed and provided whatever course of rehabilitation is needed to restore his employability notwithstanding any education or training he may have received under any laws administered by the Veterans' Administration. If period of time required to rehabilitate the veteran under Part VII combined with total period of training which the veteran has received under all other laws administered by the Veterans' Administration will exceed 48 months, the provisions of § 21.206 will be for application.

(c) *Educational and vocational guidance required for veterans eligible under both Part VII Veterans Regulation 1 (a) and Public Law 550, 82d Congress.* (1) When a veteran who has basic eligibility under Part VII applies for education or training under this Law he will be notified to report for required educational and vocational guidance prior to action on his application and if he does report a determination will be made as to whether he is in need of vocational rehabilitation. If need is determined to exist, the right of the veteran to select a program under this Law will not thereby be abridged, but any further benefit under Part VII will be subject to the limitations of paragraph (b) (1) of this section.

(2) When a veteran while in training or during a period of interruption for a valid reason under this Law becomes eligible under Part VII, he will be notified to report for required educational and vocational guidance and if he does report, a determination will be made as to whether he is in need of vocational rehabilitation. If need is determined to exist, the right of the veteran to continue training under this Law will not thereby be abridged, but any further benefit under Part VII will be subject to the limitations of paragraph (b) (1) of this section.

(3) If the veteran, upon due notification wilfully or through neglect fails to report for educational and vocational guidance as required in subparagraphs (1) and (2) of this paragraph, his eligibility under Part VII will be forfeited.

(4) For the purposes of this paragraph a veteran will be presumed to have basic eligibility under Part VII when a Veterans' Administration claims activity has determined that compensation is or would be payable under the provisions of Part I, Veterans Regulation 1 (a), as amended, and the veteran has been notified to that effect.

(5) A veteran who has basic eligibility under Part VII at the time of application for, or who becomes eligible under Part VII while in, training under this law, or in a valid interrupted status, and who is in a foreign country (other than the Republic of the Philippines) either at the time of application for benefits under the Law or determination of basic eligibility under Part VII will not be requested to report for advisement and guidance. However, such veteran will be notified that any further benefit under Part VII will be subject to the limitations of paragraph (b) (1) of this section if he continues training under this Law.

(d) *Training under Public Law 550, 82d Congress where a veteran is in training under Part VII or Part VIII, Veterans Regulation 1 (a), on his delimiting date.* (1) A veteran in training under Part VII or Part VIII on his delimiting date will be deemed to have met the requirement for initiation of a program under this Law, subject to the following:

(i) Where the veteran after his delimiting date is rehabilitated under Part VII or completes his course under Part VIII, training under this Law will be approved only if the program applied for is a normal progression from the completed course.

(ii) When, after his delimiting date, the veteran's training under Part VII or Part VIII is discontinued prior to the completion of his course, and while the veteran's conduct and progress were satisfactory, training under this Law may be approved only after all of the following conditions are met:

(*a*) The veteran has not made more than one change of course subsequent to August 19, 1952;

(*b*) The veteran resumes training in the same course;

(*c*) Such course meets all conditions for approval of a program under this law.

(iii) When, after his delimiting date, the veteran's training under Part VII or Part VIII is discontinued because of unsatisfactory conduct, training under this law may be approved only after all of the following conditions are met:

(*a*) The institution or establishment in which the veteran was pursuing his course certifies that it is willing to readmit him;

(*b*) The veteran resumes training in the same course;

(*c*) Such course meets all requirements for approval of a program under this law.

(iv) When, after his delimiting date, the veteran's training under Part VII or Part VIII is discontinued because of unsatisfactory progress, training under this law will be approved only if all of the following conditions are met:

(*a*) There has been no change of course subsequent to August 19, 1952;

(*b*) It is determined that the veteran's unsatisfactory progress was not due to his own misconduct, his own neglect, or his own lack of application;

(*c*) The program to which the veteran desires to change under this law is determined through educational and vocational guidance to be more in keeping with his aptitudes or previous education or training.

(d) A veteran residing in a foreign country (other than the Republic of the Philippines) whose training is discontinued for unsatisfactory progress may not pursue further training under this law so long as he remains in a foreign country inasmuch as educational and vocational guidance is not provided in foreign countries.

(e) *Veteran interrupted under Part VII Veterans Regulation 1 (a).* Training under Public Law 550, 82d Congress, will not be approved for a veteran while he is in training or in an interrupted status under Part VII unless he elects to terminate his Part VII training.

ENROLLMENT

§ 21.2030 *Selection of program.* (a) Subject to such limitations as are established by Public Law 550, 82d Congress, and Veterans' Administration regulations, each eligible veteran may select a program of education or training to assist him in attaining an educational, professional, or vocational objective at any educational institution or training establishment selected by him, whether or not located in the state in which he resides, which will accept and retain him as a student or trainee in any field of knowledge which such institution or establishment finds him qualified to undertake or pursue.

(b) The selection of a program of education or training by an eligible veteran will consist of:

(1) The determination and specific identification of an educational, professional, or vocational objective.

(2) The choice of a type of training and approved course or courses, or curriculum or curricula generaly considered necessary for attainment of the objective.

(3) The choice of an approved educational institution or training establishment which can provide the veteran the program of education or training required for the attainment of the objective.

(c) Veterans who request assistance in in choosing an objective or in selection of a program of education or training will be provided educational and vocational guidance.

(d) For purposes of determining and identifying the objective to be attained through a program of education or training, the following criteria will be applied;

(1) An educational objective will be designated as

(i) The completion of a unit course or subject, or

(ii) The completion of an approved curriculum or curricula leading to the award of a diploma, degree, or certificate which indicates educational attainment as distinguished from certificates or licenses which indicate qualification to practice a trade or profession. The educational objective will be stated in terms of the highest diploma, degree or certificate to be obtained if the pursuit of more than one curriculum is involved in reaching the objective.

(2) A professional or vocational objective will be designated in terms of an occupation normally pursued as a means of earning a livelihood for which an eligible veteran desires to prepare himself or in which he desires to improve his chances for success or advancement.

(3) An educational objective may be designated without specific indication of its relationship to a professional or vocational goal or objective. When a professional or vocational objective is designated, however, it may be held to include such educational objectives as may be essential to the attainment of the professional or vocational objective. Any program consisting of a series of courses

not leading to an educational objective as defined in subparagraph (1) of this paragraph must be related directly to the attainment of or advancement in a professional or vocational objective, and in such cases the professional or vocational objective must be designated.

(e) The pursuit of education or training under Public Law 550, 82d Congress, in any educational institution or training establishment located outside the continental limits of the United States or its possessions is permitted only if the veteran's program is pursued in an approved institution of higher learning. In the case training is to be, or is being, pursued at an approved institution of higher learning located in a foreign country, the veteran's application will be denied or his pursuit of the program will be discontinued, as the case may be, upon a finding by the Veterans' Administration that his enrollment in or the pursuit of such a program is or would be against his best interests or the best interests of the Government of the United States. For the purpose of this paragraph only institutions of collegiate or university rank giving educational courses leading to recognized degrees, licentiates or the equivalent will be approved as institutions of higher learning.

§ 21.2031 *Applications; approval*—(a) *Application.* (1) Each original application for a program of education or training of whatever character permitted under Public Law 550, 82d Congress, shall be filed with the Veterans' Administration on VA Form 7–1990 and the effective date of any such application will be the date of its receipt in the Veterans' Administration except that, where the application is filed with or through an educational institution or training establishment, the effective date for the commencement of benefits by virtue of such application shall be the date certified by the institution or establishment as the date of the commencement of the training if such application is received by the Veterans' Administration within 15 days following the date of such commencement of training, subject to the further provisions of § 21.2054 (a).

(2) The receipt of VA Form 7–1990 in the Veterans' Administration fully and completely executed as to all essential items is a prerequisite to the approval of the program of education or training applied for and in no instance will any action be taken to issue a Certificate for Education or Training or to authorize benefits prior to the receipt of a completed formal application.

(3) A veteran will be required to specify in his application (VA Form 7–1990) the program of education or training for which he applies and the name and address of the institution or establishment wherein he expects to commence his program. If the veteran intends to pursue a program in a college or university, he shall state the curriculum or curricula which he intends to pursue in order to reach his objective. Thus, his program will be stated in terms such as Bachelor of Science, Bachelor of Arts, Master of Arts, and the like. If the veteran does not intend to pursue a program leading to a degree, he must state the specific subjects constituting his program. If the veteran intends to pursue his program in an institution other than a college or university, such as a high school, business college, or a vocational or trade school, he shall list in terms as designated by the school the course or courses which he intends to pursue in order to reach his objective. If the veteran intends to pursue a program of apprenticeship or other on-the-job training, he shall specify his employment objective and such objective must be a recognized employment objective as listed in the Dictionary of Occupational Titles.

(4) In connection with his application for a program of institutional on-farm training, the veteran will submit to the Veterans' Administration a detailed outline of his program as planned and approved by the school, which shall include a statement of the name of the objective and the length of the program, together with a certification by a responsible official of the school which is to offer such program that the program as planned satisfies all the requirements of § 21.2202. In addition, the veteran must submit to the Veterans' Administration acceptable evidence to establish that he is assured of control of the farm or other agricultural establishment until the completion of his program and must certify that the farm and training program will occupy his full time. No action will be taken to approve an application for a program of institutional on-farm training unless and until all of the provisions of this subparagraph have been satisfied.

(5) Applications shall be supported by appropriate discharge document or active service record as specified in § 21.2011 (a).

(6) If an application is not complete at the time of the original submission, the veteran will be notified of the evidence necessary to complete the application. Any communication from or action by a claimant or his duly authorized representative which clearly indicates an intent to apply for benefits under the Law may be considered an informal application thereunder if followed promptly by a formal application, VA Form 7–1990, properly executed. The act of a veteran in enrolling in an approved institution does not, in itself, constitute an informal application.

(7) Where, for any reason, the veteran is found either not to meet the basic active service requirements for general eligibility under Public Law 550, 82d Congress, or it is determined that the program of education or training for which he has applied may not be approved, the veteran will be informed of the denial of his application, the reasons therefor and of his right of appeal. (Where an application is received from a person who is shown to be in active service in the Armed Forces the application will be denied, and the veteran informed of the reason for the denial.)

(8) Public Law 550, 82d Congress, imposes no restrictions upon a change of institution or establishment for pursuit of the same course or program. However, where subsequent parts or courses or curricula of the approved program are to be pursued in an institution other than the one providing the first part or course or curriculum of his program, the veteran must apply to the Veterans' Administration for approval of a change of institution. If otherwise in order, a supplemental certificate will be issued to the veteran authorizing him to continue the pursuit of his approved program in the second institution which shall have been designated in his request.

(b) *Approval of application; Certificate for Education and Training.* (1) Upon a determination, after receipt in the Veterans Administration of a valid completed formal application as defined in paragraph (a) of this section, that the veteran has satisfied all the requirements of Public Law 550, 82d Congress, and VA Regulations for the pursuit of the program of education or training applied for, a Certificate for Education and Training, VA Form 7–1993, will be prepared and issued to the veteran.

(2) The Certificate for Education and Training will be specifically limited by endorsement to the educational, professional, or vocational objective. The name of the institution or establishment in which the program is to be commenced will be stated. The limit of the veteran's entitlement in months and days will be entered upon the Certificate, together with a statement of the date by which the program applied for must be commenced.

(3) Veterans and educational institutions and training establishments are cautioned that a valid Certificate for Education and Training constitutes the only authentic document evidencing a veteran's eligibility and entitlement to education or training under Public Law 550, 82d Congress. Accordingly, if a veteran who is not in possession of a duly authenticated Certificate for Education and Training enters the pursuit of a program in an institution or establishment he will do so at his own risk, subject to possible determination that the Veterans' Administration may not authorize any payments to him.

(4) No application will be approved and no Certificate for Education and Training will be issued in any case where it is not clearly established that all the provisions of Public Law 550, 82d Congress, are fully satisfied.

(5) Where the issuance of a certificate is withheld for further investigation or development the applicant will be fully informed of the reasons for such action and of the matters essential to the clearance of his case.

§ 21.2032 *Change of program*—(a) *General.* Public Law 550, 82d Congress, does not permit more than one change of program in any case. A change of program is authorized under the following conditions:

(1) An eligible veteran may make one change of program upon request prior to his delimiting date, provided that if the program previously initiated has been interrupted or discontinued due to his own misconduct, neglect, or lack of application, he may not be provided any additional education or training. For

purposes of determining whether interruption or discontinuance of education or training was due to the veteran's own misconduct, neglect, or lack of application, a report will be obtained from the institution or establishment setting forth the reasons for the interruption or discontinuance.

(i) If among the reasons given for interruption or discontinuance was misconduct of such nature that the institution or establishment refuses to readmit the veteran, further education or training under the law will be denied.

(ii) If it is shown that the veteran failed to maintain a satisfactory attendance record, this will be considered to constitute neglect and the veteran will be denied further education or training under the Law unless the veteran can satisfactorily establish that such unsatisfactory attendance record was due to reasons beyond his control.

(iii) When it has been determined that the interruption or discontinuance was not due to misconduct or neglect as defined for purposes of this section, the matter of lack of application will be for consideration. In all such cases except as to a veteran residing in a foreign country other than the Republic of the Philippines, the veteran will be scheduled by the Veterans' Administration for educational and vocational guidance. If it is determined through educational and vocational guidance that the veteran's aptitudes and abilities are such that successful pursuit of the program previously initiated might reasonably have been expected, failure to make satisfactory progress in such program will constitute evidence of lack of application on the part of the veteran and further education or training under the Law in the absence of other satisfactory evidence to explain such failure, will be denied. If it is determined through educational and vocational guidance that the aptitudes and abilities of the veteran are such that satisfactory progress in the program previously initiated could not reasonably have been expected, a change of program may be approved provided the objective and program selected are determined to be in keeping with the aptitudes, abilities and interests of the veteran.

(iv) If the veteran is residing in a foreign country other than the Republic of the Philippines the registration officer shall determine whether the discontinuance was due to the veteran's misconduct, neglect or lack of application and whether a change of program may be approved.

(2) When a veteran who has not made a change of program of education or training requests such change after his delimiting date, his request will be approved only when one of the following conditions is found to exist:

(i) The program to which the veteran desires to change, while not a part of the program pursued by him, is a normal progression from such program.

(ii) The veteran is not making satisfactory progress in the program previously initiated and failure is not due to his own misconduct, neglect, or lack of application and it is determined through educational and vocational guidance that a program to which he desires to change is more in keeping with his aptitudes or previous education and training, than is his current program. If the veteran is residing in a foreign country other than the Republic of the Philippines, the veteran may not pursue further training under this Law so long as he remains in a foreign country.

(b) *What constitutes a change of program.* A change of program is considered to consist of:

(1) A change in the predetermined and identified educational, professional, or vocational objective for which the veteran entered education or training, and

(2) Corresponding changes in the type of training, and courses, or curriculum which may be required to attain the new objective. For example, when the predetermined and identified objective is an educational objective without designation of a professional or vocational goal, such as attainment of a Bachelor's degree in an institution of higher learning, if the veteran, having pursued such program sucessfully, later desires to change that objective to include advanced or specialized courses leading to a Master's degree, or a professional degree or certificate, such change will be considered a change of program because the predetermined objective and the courses required to attain it have been changed, even though such change of program may constitute a normal progression from the present program.

(c) *Normal progression.* For the purpose of the regulations in this subpart "normal progression" involves additional education or training which constitutes a true advancement or progression to a higher level of either knowledge or skills, or both, where, ordinarily or normally and as a matter of custom and practice within the area where the training is being pursued, the satisfactory completion of the one course or program is essential for enrollment in and successful pursuit of the other.

(d) *Adjustments not considered a change of program.* When the predetermined and identified objective is an educational objective without designation of a professional or vocational goal, such as attainment of a degree in an institution of higher learning, changes in types of courses pursued shall not be considered a change of program, provided such changes do not involve either a material loss of credit or an extension of the time originally planned for completion of the program. When the veteran's training status is changed by reason of such adjustments in program, however, such as changing from full time training to part time, the institution shall inform the Veterans' Administration of such change.

(e) *Requests for change of program.* Any veteran who has not made a change of program of education or training and who desires to make such a change will be required to submit his request upon VA Form 7–1995 to the Regional office in possession of his records, provided:

(1) That the veteran may indicate on the form that educational and vocational guidance is requested to assist him in selecting his objective and in planning his program; and information regarding his new program will be entered upon completion of counseling, or

(2) That when the request submitted by a veteran does not indicate clearly the objective to be attained or present an adequate description of the progam to be pursued, the veteran's request will not be disapproved until the veteran has been informed of the availability of counseling to assist him in clarifying his educational or occupational plans.

(f) *Certificate issued.* When the veteran has requested educational or vocational guidance on VA Form 7–1995, a Certificate for Education and Training may not be issued until counseling has been completed and the objective and training program have been properly set forth on the Request for Change of Program form and Certificate D, VA Form 7–1902k, together with the name and location of the educational institution or training establishment, provided that when the latter information is not found upon Certificate D, it may be supplied by the veteran by letter or memorandum.

(g) *Report of conduct and progress.* Before issuing a Certificate for Education and Training for the purpose of effecting a change of program, a report of conduct and progress will be required from the educational institution or training establishment currently or last attended to serve as a basis for determining whether such certificate may be issued in accordance with Public Law 550, 82d Congress, and Veterans' Administration Regulations.

§ 21.2033 *Avocational and recreational courses.* (a) The Veterans' Administration is prohibited from approving the enrollment under Public Law 550, 82d Congress, of any veteran in any bartending course, dancing course or personality development course.

(1) Where a physical education course in an institution of higher learning which is offered for credit as an integral part of a program leading to an educational objective includes instruction in dancing such a course is not within the restrictions of the law.

(b) The Veterans' Administration may not approve the enrollment of a veteran in any course which is avocational or recreational in character. The following courses are under the statutory presumption of being avocational or recreational in character and require justification for their pursuit:

(1) Any photography course or entertainment course, or

(2) Any music course—instrumental or vocal—public speaking course, or course in sports or athletics such as horseback riding, swimming, fishing, skiing, golf, baseball, tennis, bowling, sports officiating, or other sport or athletic courses, except courses of applied music, physical education, or public speaking which are offered by institutions of higher learning for credit as an integral part of a program leading to an educational objective, or

(3) Any other type of course which the Administrator by Veterans' Administration Regulation determines to be avocational or recreational.

(c) To overcome the presumption that a course applied for is avocational or recreational in character the veteran will be required to support his application by justification to establish that the course will be of bona fide use in the pursuit of his present or contemplated business or occupation. Justification as stipulated under these provisions must be submitted to and approved by the Veterans' Administration prior to the issuance of a Certificate for Education and Training.

(1) All adjudications under these provisions will take into account any evidence of record in the Veterans' Administration or otherwise properly within the knowledge of those charged with the adjudication.

§ 21.2034 *Discontinuance for unsatisfactory progress*—(a) *Satisfactory pursuit of training.* Entitlement to a period of education or training is subject to the provision that a veteran, having selected a program of education or training and having commenced the pursuit of such program, continues to maintain satisfactory progress and conduct throughout the period in accordance with the regularly prescribed standards and practices of the institution in which he is enrolled.

(b) *Maintenance of satisfactory conduct.* In any case where it is established that a veteran by reason of his unsatisfactory conduct will no longer be retained as a student or trainee, or would not be readmitted as a student or trainee, by the educational institution or training establishment in which he is or was enrolled there will be no further entitlement to education or training under Public Law 550, 82d Congress.

(c) *Interruption or discontinuance of training because of unsatisfactory progress prior to, on, or after the delimiting date.* Where a veteran's training is interrupted or discontinued prior to, on, or after the delimiting date because of unsatisfactory progress any further training under Public Law 550, 82d Congress, will be approved only under the provisions of § 21.2032 (a).

§ 21.2035 *Minimum number of non-veteran students required.* (a) The Administrator is not authorized to approve the enrollment or re-enrollment of any eligible veteran in any non-accredited course below the college level offered by a proprietary profit or proprietary non-profit educational institution for any period during which the Administrator finds that more than 85 percent of the students enrolled in the course are having all or any part of their tuition, fees or other charges paid to or for them by the educational institution or the Veterans' Administration under Part VII or Part VIII of Veterans Regulation 1 (a), (38 U. S. C. ch. 12), or under the provisions of Public Law 550, 82d Congress, or all of them.

(1) A student will be deemed as receiving part of full payment of tuition for or by the institution when one of the following conditions exist:

(i) A student attends under a scholarship or other grant from the institution which reduces the charges of the course to the student whether such payments are made before, during, or after attending the institution.

(ii) A student employed by the institution where compensation for work performed is in excess of usual or prevailing rate for employment of the same or similar nature.

(iii) A student who for any reason has all or part of his tuition, fees or other course charges waived by the institution.

(2) In determining the number of students comprising the 85 percent required in a course:

(i) Each part-time student will be counted on the ratio that the part-time training bears to full-time training.

(ii) In a school offering flight training courses the actual hours of logged instructional time for enrolled students (eliminating plane rental time for which no bona fide instruction was furnished by the school) will provide the basis for the determination.

(3) For the purpose of this section the ratio of veteran to non-veteran students shall be determined for each course approved as a course by the State approving agency.

(4) A school will be deemed to be a proprietary non-profit school when it is privately owned and operated whether by an individual, or individuals, or by a corporation, and when it is exempt from taxation under paragraph (6) Section 101 of the Internal Revenue Code.

§ 21.2036 *Period of operation for approval*—(a) *General.* The enrollment of an eligible veteran will not be approved in any course offered by an educational institution, when such a course has been in operation for less than two years immediately prior to the date of enrollment except that this provision not apply:

(1) To courses pursued in a public or tax supported educational institution,

(2) To courses pursued in institutions which may be considered parochial or religious in character whose credits are acceptable without condition in the public school system in fulfillment of requirements for graduation.

(3) To any course which is offered by an educational institution which has been in operation for more than 2 years if the course is similar in character to a course previously offered by the institution,

(4) To any course which has been offered by an institution for a period of more than 2 years notwithstanding the fact that the institution has moved to another location in the same general locality.

(b) *Operation for 2 years.* A course is considered to have been in operation for 2 years when it has been given continuously for 24 calendar months inclusive of reasonable vacation and holiday periods. Where courses are only offered on an ordinary school year basis (approximately 9 months) two ordinary school years in the 24 calendar months will constitute a 2-year period. Where short courses of less than an ordinary school year are offered on a regular cycle each calendar year, two cycles of such operation will constitute the 2-year period.

(c) *Course similar in character.* A course will be considered similar in character if the course provides training in the same general occupational or educational objective, and involves the same or related instructional processes, tools and materials, as courses previously furnished by the institution which has been in operation for a period of more than 2 years. In each case of an approval by the State approving agency of a new course which has not been in operation for a period of more than 2 years but which is thought by the State to be similar in character to an approved course which has been in operation for more than 2 years, the State will furnish the regional office with a copy of the approval and the basis for its view as to the similarity in character to the approved course being offered by the institution. (For correspondence courses, the State will furnish the basis for its determination to the Director, Training Facilities Service for Vocational Rehabilitation and Education, Veterans' Administration, Washington 25, D.C.)

(d) *Move to new location.* An institution will be considered to have moved to a new location in the same general locality when the new location is at a point within normal commuting distance of the original location.

(e) *Change of ownership or management.* Where an institution changes ownership or management, but it is found by the Veterans' Administration that the institution remains essentially the same as to faculty and student body and offers the same courses, such change in ownership or management will not make such school subject to the 2-year limitation.

§ 21.2037 *Institutions listed by attorney general.* (a) The Administrator will not approve enrollment of, nor payment of an education or training allowance to, any eligible veteran in any course in an educational institution or training establishment while such institution or establishment is listed by the Attorney General under Section 3 of Part III of Executive Order 9835, as amended.

(b) The director, training facilities service, will furnish promptly to each regional office and each State approving agency current information on the schools and establishments listed by the Attorney General under section 3 of Part III of Executive Order 9835.

PAYMENTS TO VETERANS

§ 21.2050 *Special certification required for non-accredited courses.* The enrollment or re-enrollment of a veteran in a non-accredited course below the college level offered by a proprietary profit or proprietary non-profit educational institution may not be approved unless such institution certifies on VA Form 7–1999 that at the time of the veteran's enrollment or re-enrollment not more than 85 per cent of the students enrolled in the course are having all or any part of their tuition, fees, or other charges paid to or for them by the educational institution, or by the Veterans' Administration under Part VII or Part VIII,

Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12), Public Law 894, 81st Congress, as amended, or Public Law 550, 82d Congress, and unless the institution certifies that the enrollment or re-enrollment of the veteran does not exceed enrollment limitations established by the State approving agency. Notwithstanding the certification of the institution as prescribed in this section, the Veterans' Administration will deny the enrollment or re-enrollment of a veteran in such course if it is known by the Veterans' Administration that the limitations prescribed in this section are not being complied with.

§ 21.2051 *Conditions governing payment of education and training allowance.* (a) The education and training allowance shall be paid only for the period of the veteran's approved enrollment. In no event, however, shall such allowances be paid

(1) To any veteran enrolled in an accredited course or a course of institutional on-farm training for any period when the veteran is not pursuing his course in accordance with the regularly established policies and regulations of the institution and the requirements of Public Law 550, 82d Congress, or

(2) To any veteran enrolled in a nonaccredited course or in a course of apprentice or other training on-the-job for any day of absence in excess of the rate of 30 days for a 12-months' period not counting as absences weekends or legal holidays established by Federal or State law during which the educational institution or training establishment is not regularly in session or operation, or

(3) To any veteran pursuing his program of education exclusively by correspondence for any quarter during which no lessons were serviced by the institution, or

(4) To any veteran pursuing a course consisting exclusively of flight training for any month during which no instruction was received.

(b) The education and training allowance shall be paid to an eligible veteran for any period only after the Veterans' Administration shall have received from the educational institution a Certification of Training certified by the eligible veteran and the educational institution or training establishment on a form provided by the Veterans' Administration for that purpose showing that the veteran has been pursuing his course as required by Public Law 550, 82d Congress. In the cases of veterans pursuing all types of courses except those pursued exclusively by correspondence (wherein the Certification of Training shall be quarterly), monthly Certifications of Training are required. If enrollment is on or after the 20th of the month, the Certification of Training for the rest of that month shall be included with the certification for the following calendar month. Any such Certifications of Training received in the Veterans' Administration later than 10 days following the close of the certification period may not be paid until the following month. Where the course is pursued exclusively by correspondence the Certifications of Training covering all lessons serviced during the reporting period will be submitted so as to be received in the Veterans' Administration by the 10th day of February, May, August and November of each year.

(c) Upon receipt by the Veterans' Administration of an Enrollment Certification from the institution showing that the veteran has entered or re-entered training, the veteran will be notified of the official Veterans' Administration authorization of his training status. Educational institutions organized on a term, quarter, or semester basis, may certify a veteran's enrollment period as being for a term, semester, quarter, or the regular ordinary school year, as the case may be. Such period of enrollment may not include a summer session as part of the enrollment for the regular school year. In all other types of training the Enrollment Certification will be for the length of the course. Since payments may be made by the Veterans' Administration only to veterans pursuing a course during a term of enrollment in accordance with the regularly established policies and regulations of the institution, enrollment for the regular ordinary school year is encouraged and will reduce administrative effort for the school, the veteran and the Veterans' Administration. Where the educational institution is organized on a term, quarter or semester basis and the educational institution certifies the veteran's enrollment on the Enrollment Certification to be for an ordinary school year, the veteran and the institution may certify that the veteran was enrolled in and pursuing his course during the regular school vacation periods and periods of not in excess of 15 days between terms, quarters or semesters (excluding summer sessions) and the education and training allowance will be paid for such periods. Where the veteran's enrollment in such an institution is certified by the institution to be only for the term, quarter or semester, the veteran and the institution shall not certify on the monthly Certification of Training that the veteran was enrolled in and pursuing his course during periods between terms, quarters or semesters and no education and training allowance will be paid for such interim periods.

(d) The veteran will be carried in a training status for the period of approved enrollment or the extent of his remaining entitlement, whichever is the lesser, so long as the veteran remains in regular attendance, his conduct and progress continues to be satisfactory according to the regularly prescribed standards and practices of the institution, and the periodic Certifications of Training are received by the Veterans' Administration. However, actual payment of education and training allowances will be made in arrears after receipt of the monthly or quarterly Certifications of Training referred to in paragraph (b) of this section. Payments shall, insofar as practicable, be made within 20 days after receipt of the periodic Certifications.

(e) For each veteran pursuing a course of on-the-job training, or a non-accredited course (except correspondence courses and courses consisting of flight training only) the Veterans' Administration will maintain a record of absences from training on the award account card. This record will be based upon the monthly Certification of Training submitted by the veteran, and certified to by the educational institution or the on-the-job training establishment. The purpose of this record is to insure that education and training allowances will not be paid for any day of absence in excess of 30 days in a 12 months' period for a course pursued on a schedule of 5 or 6 days per week (or a pro-rata part thereof where the period of enrollment is less than 12 months' duration or where the course is pursued on a schedule of less than 5 days per week, except where the standard work week established through bona fide collective bargaining is less than 5 days per week).

(f) For courses pursued on a schedule of 5 or 6 days per week the maximum number of absences for which an education and training allowance may be paid is 30 days in a 12-months' period. Therefore, where a course is pursued on a schedule of less than 5 days per week the maximum number of absences for which an education and training allowance may be paid is that pro rata part of 30 days which the number of days per week of training bears to 5.

(1) *Examples.* The following are examples of the maximum days of absence for which an education and training allowance may be paid:

(i) Where a veteran is enrolled in a course requiring 5 or 6 days per week of attendance for 12 months he would be entitled to a maximum of 30 days.

(ii) Where a veteran is enrolled in a course requiring attendance for 2 days per week for a 12-months' course, he would be entitled to a maximum of 12 days, i. e., $\frac{2}{5}$ of 30. If, however, his course is 6 months in duration, he would be entitled to 6 days, i. e., $\frac{1}{2}$ of 12.

(iii) Where a veteran is enrolled in a course requiring attendance of 4 days per week for a period of 12 months he would be entitled to a maximum of 24 days, i. e., $\frac{4}{5}$ of 30. If his course is 9 months in duration he would be entitled to 18 days, i e., $\frac{3}{4}$ of 24.

(iv) Where a veteran is enrolled in a course requiring attendance of only 1 day per week for a period of 12 months his maximum number of absences would be 6, i. e., $\frac{1}{5}$ of 30. If his course is 4 months in duration, he would be entitled to 2 days, i. e., $\frac{1}{3}$ of 6.

(v) These principles apply whether the veteran is pursuing his course on a full, $\frac{3}{4}$, $\frac{1}{2}$ or less than $\frac{1}{2}$ time basis. This policy will not apply to courses pursued exclusively by correspondence, or to flight training courses, since education and training allowances in these courses are paid on the basis of lessons completed and services, or flight instruction actually received.

(2) *Basis for reduction of education and training allowance on account of excessive absences.* The education and training allowance of a veteran enrolled in a non-accredited course (other than flight training and correspondence courses) on a full-time, $\frac{3}{4}$, $\frac{1}{2}$, or less than $\frac{1}{2}$ time basis will be reduced each month for any day of absence which absence when combined with absences previously approved without deduction in the current 12 months' period ex-

ceeds the rate of 2½ days per month in a course pursued on a schedule of 5 or 6 days per week, or a lesser number of days per month (consistent with the policy in paragraph (e) of this section) where the course is pursued on a schedule of less than 5 days per week except where the standard work week established through bona fide collective bargaining is less than 5 days a week, in which event, the rate of 2½ days per month will apply. For example, where the veteran's course is pursued on a schedule of 4 days per week the reduction would be effected for those days of absence which exceed the rate of 2 days per month ($\frac{1}{12} \times \frac{4}{5} \times 30$). Since on-the-job training may not be pursued on less than a full-time basis, the reduction would be effected where the absence exceeds the rate of 2½ days per month.

(3) *Amount of reduction for excessive absences.* (i) In all non-accredited courses (other than flight training or correspondence courses) pursued on a full-time, ¾ time or ½ time basis, the amount of the reduction for each day of absence in excess of the maximum number for which payment may be made will be 1/25th of the veteran's monthly education and training allowance. In all on-the-job training courses reduction will be at the same rate except where the standard work week established through bona fide collective bargaining requires a different adjustment. Where the standard work week established through bona fide collective bargaining requires less than 5 days a week, the reduction for excessive absence will be determined pursuant to the table set forth in subdivision (ii) of this subparagraph.

(ii) In all non-accredited courses pursued on less than ½-time basis, the amount of reduction for each day of absence in excess of the maximum number for which payment may be made will be that part of the veteran's monthly education and training allowance which is indicated in the following table:

| Days of scheduled attendance per week: | *Amount of reduction per day of excessive absence* |
|---|---|
| 5 or more ($\frac{5}{5} \times \frac{1}{25}$) | 1/25th |
| 4 ($\frac{4}{5} \times \frac{1}{25}$) | 1/20th |
| 3 ($\frac{3}{5} \times \frac{1}{25}$) | 1/15th |
| 2 ($\frac{2}{5} \times \frac{1}{25}$) | 1/10th |
| 1 ($\frac{1}{5} \times \frac{1}{25}$) | 1/5th |

(iii) Reduction of education and training allowance in those instances where the excess constitutes less than a full day will be at the appropriate rate for a full day of absence. For example, if a veteran in pursuit of a full-time non-accredited course on a schedule of 5 days per week is absent for 3 days in the first month, he will have exceeded by ½ day the maximum number of days of absences for which payment may be made. Therefore, his education and training allowance will be reduced for one full day. If no absences are reported for the second month of training, but 5 absences are reported for the third month, no reduction of education and training allowance would be effected for the third month since his allowance has previously been reduced for a full day because of an excess absence of ½ day.

(4) *Certification for part of month.* Where the period covered by the first monthly certification is a period of less than 15 days, reduction will be made for each day of absence. If the period represents more than 15 days, the number of absences for which education and training allowance may be paid will be the maximum number allowable for a full month.

(5) *Absences disclosed following termination of training.* The reduction of education and training allowances for absences in excess of the maximum number for which payment may be made will be accomplished even though the veteran may have completed or interrupted his course of training, as in instances where the Veterans' Administration receives reports of absences subsequent thereto which should have been reported while the veteran was in a training status. In these circumstances, appropriate action will be accomplished to reduce the payment of education and training allowance.

(g) Where the Veterans' Administration fails to receive the properly completed certifications for two consecutive reporting periods or in correspondence or flight training courses if reports were received but no lessons were serviced or no instruction was received for two consecutive reporting periods, it will be presumed that the veteran is no longer pursuing his course under Public Law 550, 82d Congress. Therefore, the veteran's course of training will be discontinued. Re-entrance into training, if otherwise in order, will be accomplished by the use of VA Form 7-1999.

§ 21.2052 *Rates of education and training allowances*—(a) *Institutional training; full- and part-time rates.* (1) The rate of education and training allowance payable to a veteran who is pursuing a program of education or training in an educational institution shall be as follows:

(i) If such program is pursued on a full-time basis, such allowance shall be computed at the rate of $110 per month, if the veteran has no dependent, or at the rate of $135 per month, if he has one dependent, or at the rate of $160 per month if he has more than one dependent.

(ii) If such program is pursued on a three-quarter time basis such allowance shall be computed at the rate of $80 per month if the veteran has no dependent, or at the rate of $100 per month if he has one dependent, or at the rate of $120 per month if he has more than one dependent.

(iii) If such program is pursued on a half-time basis, such allowance shall be computed at the rate of $50 per month, if the veteran has no dependent, or at the rate of $60 per month if he has one dependent, or at the rate of $80 per month if he has more than one dependent.

(iv) If such program is pursued on a less than half-time basis, such allowance will be computed at the rate of (*a*) the established charges for tuition and fees which the institution requires similarly circumstanced non-veterans enrolled in the same course to pay, or (*b*) $110 per month for a full-time course, whichever is the lesser.

*Example.* Where a 3-hour course is pursued in an institution of higher learning, $\frac{3}{14}$ of $110 would be for application under subdivision (*b*) of this subdivision.

(b) *Cooperative course.* (1) The education and training allowance of an eligible veteran who is pursuing a full-time program of education and training in a cooperative course shall be computed at the rate of $90 per month, if he has no dependent, or $110 per month, if he has one dependent, or $130 per month, if he has more than one dependent.

(2) No allowance will be authorized for a cooperative course of less than full time.

(c) *On-the-job training.* (1) The education and training allowance for an eligible veteran pursuing apprentice or other training on-the-job shall be computed at the rate of $70 per month, if he has no dependent, or $85 per month, if he has one dependent, or $105 per month if he has more than one dependent, except that his basic rate of education and training allowance shall be reduced at the end of each four-month period as his program progresses by an amount which bears the same ratio to the basic education and training allowance as 4 months bears to the total duration of his apprentice or other training on-the-job; but in no case shall the education and training allowance be authorized under this paragraph in an amount which, when added to the monthly compensation to be paid to the veteran for productive labor performed as a part of his course in accordance with his approved training program would exceed the rate of $310 per month.

(2) For the purpose of computing allowances under this paragraph, the duration of the training of an eligible veteran shall be the original approved certified period of enrollment in the course plus such additional period, if any, as is necessary to make the number of months of such training a multiple of four. For example, a veteran's approved certified period of enrollment is 18 months. A period of 2 months will be added to make the total a multiple of 4, thereby requiring a reduction of ⅛ of the basic education and training allowance each 4 months. Where there occurs a change in the dependency status after the commencement of the program the rate to be paid from the proper effective date will be that adjusted amount which would have been appropriate had the dependency status existed from the beginning of the veteran's enrollment in the program, subject to the ceiling provisions.

(3) If in any case the State approving agency extends the length of the period required to complete the approved program of the veteran, no education and training allowance for such extended period will be authorized.

(4) No allowance will be authorized for a course of on-the-job training pursued on a less than full-time basis.

(d) *Institutional on-farm training.* (1) The education and training allowance of an eligible veteran pursuing institutional on-farm training shall be

computed at the rate of $95 per month, if he has no dependent, or $110 per month, if he has one dependent, or $130 per month if he has more than one dependent, except that his education and training allowance shall be reduced at the end of each 4-month period as his program progresses by an amount which bears the same ratio to $65 per month, if the veteran has no dependent, or $80 per month, if he has one dependent, or $100 per month if he has more than one dependent, as 4 months bears to the total duration of such veteran's institutional on-farm training.

(2) For the purpose of computing allowances under this paragraph the duration of the training of an eligible veteran shall be the original approved certified period of enrollment in the course plus such additional period, if any, as is necessary to make the number of months of such training a multiple of four. For example, a veteran with one dependent is enrolled in an approved course of 21 months in duration. A period of 3 months will be added to make the total a multiple of 4, thereby requiring a reduction of ⅛ of $80 each 4 months, since $80 is the fixed statutory rate upon which reductions will be based in this case. Where there occurs a change in the dependency status after the commencement of the program the rate to be paid from the proper effective date will be that adjusted amount which would have been appropriate had the dependency status existed from the beginning of the veteran's enrollment in the program.

(3) If in any case the State approving agency or the school extends the length of the period required to complete the approved program of the veteran, no education and training allowance for such extended period will be authorized.

(e) *Correspondence course.* The education and training allowance of an eligible veteran pursuing a program of education or training exclusively by correspondence shall be computed on the basis of the established charge which the institution requires non-veterans to pay for the same course or courses. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran and serviced by the institution, as certified by the veteran and the institution.

(1) No education and training allowance will be paid for correspondence courses pursued by a veteran whose program of education or training consists in part of institutional on-farm, training on-the-job, or institutional training in residence.

(2) Where a veteran's program of education or training includes a course consisting of correspondence instruction with provisions for a limited period of less than a month of classroom instruction provided by the institution, such course will be considered a course pursued exclusively by correspondence and the educational and training allowance will be based on the established charges for the correspondence portion only.

(3) The established charge for a correspondence course shall not be considered to be more than the lowest charge which is customarily paid by a non-veteran student under any payment plan exclusive of a cash discount arrangement for advance payments.

(4) The training institution offering approved correspondence courses will transmit to the Director, Training Facilities Service, Veterans' Administration, Washington 25, D. C., a list of all approved courses and any additions or changes made subsequently thereto and a certified statement of the established charges to non-veterans for each course. Such statement will list consecutively the lessons in each course, the books, supplies, tools and equipment to be supplied with each lesson, other pertinent charges, the established practices in detail of servicing a lesson or lessons and the standards for determining completed lessons including a statement of the grading policy and methods of determining progress.

(5) Only such charges for books, supplies, tools and equipment in the same quantity and quality as are necessary and are required to be purchased by non-veterans may be charged to veterans. Only those items furnished directly by the institution to enrollees as a part of the course, may be included as a part of the established charges for the course. Where items of equipment are furnished on a rental basis to non-veterans, only the rental charge shall be considered in reporting the established charges for the course. Where books, supplies, tools and equipment are furnished at the end of the course or after completion of regular lessons and such were not needed for the successful completion of the course of education and training the charges therefor will not be included in computing the established charges for the course.

(6) In the event an institution desires to change its charges for courses after submittal of a statement of charges and services as set forth in this paragraph, such proposed charges will be promptly reported to the Director, Training Facilities Service, Veterans' Administration, Washington 25, D. C., together with the effective date applicable to non-veteran students. Where the director, training facilities service determines on the basis of the information submitted that it is necessary to revise the education and training allowance for veterans enrolling after the effective date of such changes, the institution and the regional offices will be notified of the change in courses and charges which will affect the computation of the education and training allowance and the effective date thereof. The education and training allowance of an eligible veteran who is already enrolled in such course will continue to be based on established charges and services in effect on date of his enrollment despite any changes made subsequent thereto.

(7) For the purpose of payment of an education and training allowance a lesson will be considered as completed by the veteran and serviced by the institution when:

(i) The lesson assignment has been completed by the veteran in accordance with the criteria of the institution and has been submitted to the institution for review, and

(ii) The institution has reviewed and graded the lesson and provided the veteran in writing with its evaluation and comments in accordance with its standards and has recorded the results of such servicing.

(*a*) Only one servicing of a lesson may be charged to the veteran.

(f) *Flight courses.* Each eligible veteran who is pursuing an approved course of flight training shall be paid an education and training allowance to be computed at the rate of 75 per centum of the established charge which similarly circumstanced non-veterans enrolled in the same courses are required to pay for tuition for the course. If his program of education or training consists of flight training and other education or training, the allowance payable under this paragraph shall be in addition to any education and training allowance payable to him under one of the preceding paragraphs of this section. Such allowance shall be paid monthly upon receipt of certification from the eligible veteran and the institution as to the actual hours of instruction of flight training received by the veteran and the established cost thereof. For example, the veteran is enrolled in a private pilot course where the established cost for dual instruction is $11.50 per hour, and for ground instruction is $0.70 per hour. Within a particular month the veteran received 8 hours of dual instruction and 4 hours of ground instruction. The total established charges for this instruction is $94.80. Therefore, the veteran's education and training allowance for this month will be $71.10 (75 percent of $94.80).

§ 21.2053 *Education and training allowance payable where trainee is in receipt of disability compensation at the rate of 50 percent or more; Public Law 877, 80th Congress, cases.* A veteran may not receive concurrently increased disability compensation and increased education and training allowance because of his dependent or dependents. In each case a determination will be made as to which of the following is the greater: (a) The sum of the education and training allowance payable because of dependency and the basic disability compensation payable to a person without a dependent, or (b) the sum of the disability compensation payable including the additional compensation for a dependent or dependents and the rate of education and training allowance payable in the individual's case without regard to the existence of a dependent. Education and training allowance will be authorized in an amount equal to the difference between the greater benefit as computed in this section and total amount of disability compensation awarded by the adjudication division (i. e., basic rate plus additional amounts for dependents).

§ 21.2054 *Effective beginning dates of entrance or re-entrance into training and for payment of education and training allowance.* (a) The effective beginning date for the payment of education and training allowance will be the date of receipt of application therefor in the Veterans' Administration, or the date of entrance or re-entrance into training as

certified by the institution or establishment on VA Form 7–1999, or the date of the approval of the course by the appropriate approving agency, or the date the institution or establishment applied for approval of the course, whichever is the later, except that where the application is filed with or through an educational institution or training establishment, the effective date for the commencement of benefits by virtue of such application shall be the date certified by the institution or establishment as the date of the commencement of the training if such application is received by the Veterans' Administration within 15 days following the date of such commencement of training.

(b) All authorization actions accomplished by the registration and research section entering veterans into education or training (full-time or part-time institutional training, on-the-job or aprenticeship training, etc.) will authorize education and training allowance at the rate provided for a person without a dependent or dependents, unless satisfactory evidence of dependency accompanies his application or is of record which warrants an authorization of education and training allowance on account of the dependents. If evidence of relationship or dependency accompanies the veteran's application or is of record, the appropriate rate reflecting such dependency will be authorized.

(c) Where the veteran asserts on his original application for education and training allowances that he has a dependent or dependents, he will be informed of the necessity to submit satisfactory evidence of such dependents, and that until such evidence is received in the Veterans' Administration education or training allowance on the basis of the dependents will not be authorized. If satisfactory evidence of such dependents is received within 1 year of the date of request therefor, education or training allowance payable because of the dependents will be authorized effective as of the date of entrance into training or the receipt of the application if received at a later date. If such evidence is received after 1 year of the date of request therefor, the effective date of an authorization for education or training allowance on account of dependents will be as of the date of the receipt by the Veterans' Administration of the evidence showing entitlement thereto. If such evidence is in the claims folder, duplicate evidence will not be required.

§ 21.2055 *Effective closing dates of an authorization of education or training allowance*—(a) *Schools, colleges and universities.* The effective closing date shall be the ending date of the course, or the ending date of the period of enrollment as certified by the school or the expiration date of the veteran's entitlement, whichever is the earlier.

(b) *Apprenticeship or other on-the-job training.* The effective closing date shall be the ending date of the period of training as established by the training agreement, or the ending date of the period of enrollment as certified by the establishment, or the expiration of the veteran's entitlement, whichever is the earlier.

(c) *Institutional on-farm training.* The effective closing date shall be the ending date of the course as contained in the veteran's application and certified by the institution, or the expiration date of the veteran's entitlement, whichever is the earlier.

(d) *Final date for payments.* No education or training allowance shall be authorized to any veteran beyond seven years after either (1) his discharge or release from active service or (2) the end of the basic service period, whichever is earlier.

§ 21.2056 *Effective date of change or discontinuance of education or training allowance.* (a) The effective date of a change in the authorization of education or training allowance shall be:

(1) In the event of death of a dependent, as of the date following the date of death.

(2) In the event of divorce, the date of divorce.

(3) In case of a child, the date of the eighteenth anniversary of date of birth, or, if attending school after age 18, the date following cessation of school attendance or the date of the twenty-first anniversary of the date of birth, whichever is the earlier; or the date of marriage; or in the case of cessation of incapacity to support self by reason of mental or physical defect, last day of month in which reduction is approved.

(4) In the event of a change in the extent of the course being pursued, the date the change in the extent of the course occurred, e. g., change from full-time to part-time pursuit of course.

(5) In the event of a change in the scheduled trainee wage rate, as of the date the change is scheduled to occur.

(6) In the event veteran applies for an additional education or training allowance because of a dependent or dependents while in training such additional allowance will be authorized as of the date of change or the date of reentrance into training, whichever is later, if application therefor is received in the Veterans' Administration within 45 days, otherwise from date of receipt of application provided satisfactory evidence of such dependent or dependents is received in the Veterans' Administration within 1 year of the date of request therefor.

(b) The effective date of discontinuance of education and training allowance shall be:

(1) In the event of death of the veteran, as of the date of death.

(2) In the event of termination of training because of the veteran's re-entry into the active military service as of the date prior to such re-entry into the military service, or last date of attendance, or in the case of a veteran enrolled in a correspondence course as of the date the last lesson was serviced, or in the case of a veteran pursuing a flight training course as of the last date instruction was received, whichever is earlier.

(3) In the event it is found that the conduct or progress of the veteran is unsatisfactory, as of the date the veteran is dropped by the educational institution or establishment or as of the date such determination is made by the Administrator, whichever is earlier.

(4) In the event a school or establishment in which the veteran is enrolled is subsequently listed by the Attorney General under section 3, Part III of Executive Order 9835, as of the date preceding the date of such listing.

(5) As of the date of enrollment in the event the Veterans' Administration fails to receive the properly completed periodic Certifications of Training for the first two reporting periods in a period of enrollment; or in courses pursued exclusively by correspondence, if the Certification of Training was received but no lessons were completed and serviced during the first two quarters; or in courses of flight training, if the Certification of Training was received but no instruction was furnished during the first two months.

(6) As of the end of the month for which the last proper payment was made, in the event the veteran has commenced his course but the Veterans' Administration fails to receive the properly completed periodic Certification of Training for two consecutive reporting periods; or in courses pursued exclusively by correspondence, if the report was received but no lessons were completed and serviced during two consecutive quarters; or in courses of flight training, if the report was received but no instruction was furnished during two consecutive months.

(7) In the event of disapproval of a course by the State approving agency, as of the date of receipt in the Veterans' Administration of such notice of disapproval or as of the date of such disapproval, whichever is later, or, in the event of disapproval of a course by the Administrator as of the date of such disapproval.

(8) In the event a course of training fails to continue to meet the criteria as prescribed in Public Law 550, 82d Congress, as of the date notice of such finding by the State approving agency, is received by the Veterans' Administration, or the date such finding is made by the Veterans' Administration, whichever is earlier.

(9) In the event a veteran interrupts training in a course other than correspondence or flight training prior to completion of the course or completion of the certified period of enrollment as of the last date of attendance.

(10) In the event a veteran interrupts training in a correspondence course as of the date the last lesson is serviced for which payment is made by the Veterans' Administration.

(11) In the event a veteran interrupts a flight training course, as of the date the last instruction was received.

(12) In the event the veteran shall forfeit all rights, claims, and benefits as of the date of the commission of the act upon which the central committee on waivers and forfeitures based the forfeiture: *Provided, however,* That if the evidence of record establishes that the veteran was guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies within the meaning of section 4, Public Law 144, 78th Congress, as of the date of commission of the offense or of original entrance into training, whichever is the later.

§ 21.2057 *Duplication of benefits.* No eligible veteran shall be paid an education and training allowance under Public Law 550, 82d Congress, for any period during which he is enrolled in and pursuing a course of education or training paid for by the United States under any provision of law, other than this law, where the payment of such allowance would constitute a duplication of benefits paid to the veteran from the Federal Treasury. Where the veteran is enrolled in a program of education or training and is the recipient of a grant or fellowship or is appointed as a trainee or student under any program where the payment to the veteran is for the specific purpose of providing an allowance for either living expenses or tuition, or both, and derives in whole or in part from funds appropriated from the Federal Treasury and granted or administered by other Federal Agencies, the veteran cannot concurrently receive the benefits of this Law and other Federal benefits which would constitute a duplication. Thus a veteran participating in the U. S. Maritime Commission training program, or receiving a fellowship from the Atomic Energy Commission, or the Public Health Service, could not concurrently receive education and training allowances under this Law. This section does not bar payment of an education or training allowance to a student enrolled in a land-grant college which is receiving Morrill-Nelson and Bankhead-Jones funds nor to a student enrolled in a vocational training course conducted under the act of February 23, 1917, as amended (39 Stat. 927), or the Vocational Education Act of 1946, nor to a veteran who is enrolled in an educational institution and participating in the ROTC programs of the Army or contract NROTC plan of the Navy nor to a veteran participating in an on-the-job training program in a Government establishment such as a Navy Yard nor to a veteran receiving benefits under Public Law 584, 79th Congress (Fulbright Act). It does preclude payment of an education and training allowance under this law to a student participating either in the program provided under Public Law 729, 80th Congress (56 Stat. 464) or in the program provided under Public Law 51, 82d Congress (62 Stat. 75).

§ 21.2058 *Jurisdiction over domestic relations determinations.* (a) Determinations of domestic relations questions other than those indicated in § 14.502 of this chapter will be made by the registration officer in all cases unless the circumstances involved differ from those present in cases which have formed the basis of formal opinions rendered by the solicitor. (See § 3.6 of this chapter.) Where the domestic relations question is one of doubtful legality and cannot be related to a precedent formal opinion of the solicitor, a request for an opinion will be submitted to the chief attorney in regional office cases or to the solicitor in central office cases. Such requests will be made by memorandum setting forth the question upon which an opinion is desired, together with a complete and accurate statement of the facts involved.

(b) Within the limitations described in paragraph (a) of this section, the registration officer will make determinations on domestic relations questions, including the legality of adoption except where the letters of adoption are not regular on their face or circumstances surrounding the adoption suggest that the procedure was not accomplished in conformity with the law of the State involved.

(c) Current determinations of relationship and dependency and domestic relations questions made in accordance with existing instructions by either the vocational rehabilitation and education activity or the adjudication activity will be binding one upon the other in the absence of clear and unmistakable error.

§ 21.2059 *Definitions and proof of relationship and dependency.* The following classes of dependents, when such dependency status is established by the veteran in accordance with the provisions of §§ 3.40 through 3.57 of this chapter, may be recognized for the purpose of payment of increased rates of education and training allowance as provided in § 21.2051: Child, parent, wife, husband.

§ 21.2060 *Dependency of husband of female veteran.* The husband of a female veteran-trainee may be considered to be her dependent for the purpose of additional education and training allowance if he is in fact dependent upon her. In such case the husband will be determined to be in fact dependent upon her only where it is established that his dependency results from physical or mental incapacity and his monthly income from sources proper to consider (as defined in § 3.57 of this chapter) is not sufficient to provide him with reasonable maintenance, and he is not being otherwise maintained at the expense of the Federal Government.

CROSS REFERENCE: Requirements for Submission of Evidence—See §§ 3.30 through 3.33 of this chapter.

CROSS REFERENCE: Evidence Requirements to Establish Marital Status—See § 4.17 (b) of this chapter.

CROSS REFERENCE: Determinations Where Evidence of Marital Status is Incomplete—See § 4.17 (c) of this chapter.

CROSS REFERENCE: Common-Law Marriages—See § 4.17 (d) of this chapter.

§ 21.2062. *Dependency of child of female veteran.* A minor child of a female veteran may be considered to be her dependent for the purpose of education and training allowance. Such child may be considered to be a dependent of the female veteran where the husband, who is also a veteran, is in training under Public Law 550, 82d Congress, and is in receipt of an increased education and training allowance based on the wife and the same child.

§ 21.2063 *Apportionment of education or training allowances.* There is no authority under Public Law 550, 82d Congress for the authorization of apportioned shares of the education or training allowance to dependents of the veteran-trainee.

§ 21.2066 *Measurement of full- or part-time courses—(a) Institutional trade or technical courses.* (1) Institutional trade or technical courses offered on a clock-hour basis below the college level involving shop practice as an integral part thereof offered by any kind of an institution, and an institutional trade or technical course involving shop practice as an integral part thereof offered by a collegiate institution but for which credit is not given toward a standard collegiate degree, shall be measured as follows:

(i) Full time: A minimum of 30 hours per week of required attendance with not more than 2½ hours rest periods per week and required attendance for not fewer than 5 days per week.

(ii) Three-fourths time: Less than 30 hours but not less than 22 hours per week of attendance required with not more than 2 hours of rest periods per week.

(iii) One-half time: Less than 22 but not less than 15 hours per week of attendance required with not more than 1¼ hours of rest periods per week.

(iv) Less than one-half time: Less than 15 hours per week of required attendance.

(2) In a school that grants rest periods in part-time courses, the aggregate time per day devoted to such rest periods shall not exceed the rate of 5 minutes per hour of attendance and the payment of training allowance will be consistent with the basic requirements for full-time training. A "trade or technical course offered on a clock-hour basis below the college level, involving shop practice as an integral part thereof," shall be considered to include only courses of training for occupations which are customarily learned through apprenticeships or other training on-the-job, i. e., the skilled, semiskilled, and unskilled occupations as listed under first digits 4 through 9, inclusive, and the personal service occupations listed under digits 2–26 through 2–32, inclusive, in the second edition of the Dictionary of Occupational Titles, dated March 1949.

(b) *Academic courses below college level on a clock-hour basis.* An institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates (i. e., more than 50 percent of the required hours per week) offered by any kind of an institution, and an institutional course in which theoretical or classroom instruction predominates offered by a collegiate institution but for which credit is not given toward a standard collegiate degree, shall be measured as follows:

(1) Full time: A minimum of 25 hours per week net of instruction, exclusive of shop practice periods and any rest period, but not excluding regularly scheduled laboratory periods or supervised study periods or customary 5 or 10 minute intervals between classes for the purpose of changing student or teacher stations as required by the school, and attendance required for not fewer than 5 days per week.

(2) Three-fourth time: Less than 25 hours but not less than 18 hours per week net of required instruction.

(3) One-half time: Less than 18 hours but not less than 12 hours per week of required instruction.

(4) Less than one-half time: Less than 12 hours per week net of required instruction.

(c) *Non-accredited institutional course.* A non-accredited institutional course approved under section 254 of Public Law 550, 82d Congress, in which theoretical or classroom instruction predominates (i. e., more than 50 percent of the required hours per week) offered by a school which requires high school graduation or the equivalent as a prerequisite to entering the course shall be measured on a clock-hour basis as in paragraph (b) of this section, unless the course is measured on a credit hour basis under paragraph (d) of this section.

(d) *Institutional undergraduate course recognized for credit toward a standard college degree.* An institutional undergraduate course offered by a degree granting college or university for which standard units of credit are granted toward a standard college degree and which is either recognized by a nationally recognized accrediting association or although not so recognized its component units of credit have been and will be accepted at full value without examination toward a standard college degree by at least 3 collegiate institutions which are members of nationally recognized accrediting associations or agencies shall be measured as follows:

(1) Full time: A minimum of 14 semester hours or its equivalent, i. e., not less than 14 standard semester hours of credit per semester or the equivalent of 14 standard semester hours of credit per semester in quarter hours, term hours, or in other measures of credit used by a particular institution.

(i) A veteran pursuing an accredited course in a college or university will be considered to be pursuing the equivalent of a 14 semester hour course when:

(*a*) The veteran is enrolled for a term shorter than a regular school term, e. g., a summer session, for the number of semester credit hours which bears the same ratio to 14 as the number of weeks in the short term bears to the number of weeks in the regular semester. For example, if the standard semester is 16 weeks and the veteran attends a summer session of 8 weeks duration the course will be considered full-time if the veteran is enrolled for 7 semester hours credit for the summer session.

(*b*) The veteran is enrolled for courses which are acceptable for 14 semester hours or equivalent credit but for which credit may not be awarded to the particular veteran-student because of his failure to meet college entrance requirements or for some other equally valid reason, provided the veteran performs all of the work prescribed for other students who are enrolled for credit.

(*c*) The veteran is enrolled for 14 semester hours or equivalent credit in courses in a department of an accredited institution of higher learning, such as a technical institute, which department does not grant degrees but which does measure its course in terms of standard credit-hours and can demonstrate that these credits are acceptable at full value by the regular degree-granting elements of the institution.

(2) Three-fourths time: Less than 14 semester hours per semester or the equivalent but not less than 10 semester hours per semester or the equivalent.

(3) One-half time: Less than 10 semester hours per semester or the equivalent but not less than 7 semester hours or the equivalent.

(4) Less than one-half time: Less than 7 semester hours per semester or the equivalent.

(e) *Accredited graduate or advanced professional courses.* An accredited graduate or advanced professional course pursued at a collegiate institution which consists of or includes research or a comparable prescribed activity regardless of whether standard units of credit are or are not given, shall be measured as follows:

(1) Full time: Course pursued in residence and a responsible official of the institution certifies that the veteran is pursuing the course on a full-time in residence basis.

(2) Three-quarter time: Course pursued in residence and a responsible official of the institution certifies that the veteran is pursuing the course on a ¾-time in residence basis.

(3) One-half time: Course pursued in residence and a responsible official of the institution certifies that the veteran is pursuing the course on a ½-time in residence basis.

(4) Less than ½ time: Course pursued in residence and a responsible official of the institution certifies that the veteran is pursuing the course on a less than ½-time in residence basis. Also, course pursued in absentia shall be measured as less than ½ time.

(f) *Law course.* (1) An accredited law course pursued in an accredited law school for the LL. B. degree where, as is usual, the units of credit are of greater value than the standard units of credit for other courses leading to undergraduate degrees in other schools shall be measured as in paragraph (e) of this section, except that an accredited 4-year night law course shall be considered part-time and shall be measured as not more than ¾ time.

(2) A non-accredited law course pursued in a non-accredited school will be measured on a clock-hour basis as in paragraph (b) of this section.

(g) *Apprentice or other training on-the-job.* A course of apprentice training or other training on-the-job shall be measured as follows:

(1) Full time: The number of hours which constitute the standard workweek of the establishment at which the training is pursued but not less than 36 hours of required attendance per week except that for apprentice training full-time training shall be not more than the hours established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

(2) Apprentice or other training on-the-job which is less than full time is not authorized.

(h) *Cooperative course.* (1) The course referred to and authorized in Public Law 550, 82d Congress, as consisting of institutional courses and on-the-job courses and as further defined and described in § 21.2205 shall be measured as full time when the school portion measures full time under either paragraph (b) (1), (c), or (d) (1) of this section and a responsible official of the school offering the course certifies to the Veterans' Administration that the establishment offering the on-the-job portion will require of the veteran not less than 36 hours per week of attendance in training, except where, in a particular establishment, less than 36 hours per week have been established as the standard workweek through bona fide collective bargaining between employers and employees, and the official further certifies that the on-the-job portion meets the other criteria stated in § 22.2201.

(2) Cooperative courses involving continuous part-time work and part-time study in combination shall be measured on the basis of the ratio which each such portion of the training bears to full time as defined in subparagraph (1) of this paragraph.

(3) Training in a cooperative course on less than a full-time basis is not authorized.

(i) *Institutional on-farm training.* As specifically prescribed in Public Law 550, 82d Congress, the approved course shall provide that the operation of the farm, together with the group instruction part of the course, shall occupy the full time of the veteran.

(1) In no case will the veteran be deemed to be devoting full time to the pursuit of his program of institutional on-farm training during any period when he engages in remunerative employment, other than the conduct of his institutional on-farm training program, and such remunerative employment:

(i) Exceeds 180 hours during any 12-month segment of his enrollment period or a pro rata part thereof during a segment at the end of his period of enrollment which is shorter than 12 months. For example: If the veteran's approved program is 18 months in length, remunerative employment in excess of 180 hours during the first 12 months of his enrollment or in excess of 90 hours during the last 6 months would require interruption of the veteran's training; or

(ii) Totals 180 hours or less during a 12-months' segment of his enrollment period, unless the school finds that such employment does not impede or interfere with the veteran's pursuit of his farm training program.

(2) Day-for-day exchange of labor for farming operations, when performed in accordance with the farm practices of the community and then only to the extent permitted by the school, is considered to be labor in connection with the conduct of the veteran's farm training program, and will not be regarded as remunerative employment.

(3) The law does not permit the pursuit of institutional on-farm training on less than a full-time basis.

§ 21.2067 *Overcharges by educational institutions.* (a) The Administrator is required to disapprove any educational

institution for the enrollment of any veteran, not already enrolled therein, if he finds that such educational institution has charged or received from any eligible veteran any amount in excess of the institution's established charges for tuition and fees which the institution requires similarly circumstanced nonveterans to pay, except that if a tax supported public educational institution has no established charges for tuition and fees (i. e., it does not charge any amount for either tuition or fees) which nonveteran resident students are required to pay, Public Law 550, 82d Congress, provides that the Administrator is not required to disapprove an institution if it charges to each eligible resident veteran an amount not in excess of the cost of teaching personnel and supplies for instruction but in no event to exceed $10.00 per month for a full-time course or a pro rata part thereof for less than a full-time course. The tax supported public institutions which charge resident veterans, although having no established charges for tuition and fees for resident non-veterans, will notify the appropriate regional office in writing of such charge and the date such charge is to be effective. Such notice to the Veterans' Administration will include a certification by the president or other authorized official that the institution does not have established charges for tuition and fees which it requires non-veteran residents to pay, and that the charge to veterans does not exceed the amount stated in the law.

(b) The charges for tuition and fees which would be applicable to resident non-veteran students, if any were enrolled, by approved non-profit educational institutions which are not subject to the limitation of 15 percent non-veteran students and which do not have any non-veterans enrolled in the same course in which eligible veterans are enrolled will be considered as the established charge.

STATE APPROVING AGENCIES

§ 21.2150 *Designation of State approving agencies under Public Law 550, 82d Congress.* (a) The Chief Executive of each State will be requested by the Administrator to create or designate a State department or agency as the "State approving agency" for his State for the purposes of assuming the responsibilities delegated to the State under the law; or if the law of the State provides otherwise, to indicate the agency provided by such law.

(b) The Chief Executive of each State will notify the Administrator in the event of any change in the designation of a "State approving agency."

(c) The Administrator will recognize separate agencies or departments of a State as the State approving agency for different types of education or training institutions or establishments if such agencies or departments are so designated by State law, or if not are so designated by the Chief Executive of the State. In the event any State does not have and fails or declines to create or designate a State approving agency, the provisions of the law which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Administrator, and the Administrator will arrange for the discharge of the approval authority by Veterans' Administration personnel, or otherwise.

(d) In the case of courses subject to approval by the Administrator under this law, the provisions which refer to a State approving agency shall be deemed to refer to the Administrator, and are hereby delegated to the assistant administrator for vocational rehabilitation and education.

§ 21.2151 *Approval of courses under Public Law 550, 82d Congress.* (a) An eligible veteran shall receive the benefits of the law, while enrolled in a course of education or training offered by an educational institution or training establishment only if such course is approved by the State approving agency for the State where such educational institution or training establishment is situated or by the Administrator where appropriate.

(b) Approval of courses by State approving agencies shall be in accordance with the provisions of the law, and such other regulations and policies as the State approving agency may adopt not in conflict therewith.

(c) The Administrator shall be responsible for the approval of courses of education or training offered by any agency of the Federal Government authorized under other laws to offer such education or training. The Administrator may approve any course in any other educational institution or training establishment in accordance with the provisions of the law.

(d) Applications for approval by the Administrator shall be submitted to the assistant administrator for vocational rehabilitation and education who is hereby delegated the authority to approve or disapprove such applications subject to the provisions of the law and VA Regulations. Such applications shall contain the information as required by the regulations in this subpart with respect to applications to a State approving agency.

(e) Upon notification that the appropriate State approving agency does not intend to act upon the application of any educational institution or training establishment desiring to offer education or training under the law such institution or establishment may submit to the Administrator an appropriate application for approval. Such application should be supported by explanation of the reasons for failure of the State approving agency to act.

§ 21.2152 *Cooperation between State approving agency and the Veterans' Administration under Public Law 550, 82d Congress.* (a) The provisions of the law require that the Administrator and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Administrator and each State approving agency under its terms. The law further requires compliance by the State authorities with its provisions as a condition for payment for its services. The contracts must so provide. The cooperation of the Administrator and the State approving agency is essential in confining the activities of their respective agencies to those duties, functions, and responsibilities as assigned to each by the provisions of the law so as to assure that such programs are effectively and efficiently administered.

(b) The law contemplates that State approving agencies are responsible for inspecting and supervising educational institutions and training establishments within the borders of the State and in determining those courses which may be approved for the enrollment of eligible veterans under the terms of the law and, where appropriate, for establishing the maximum number of students that may be enrolled at any one time in any course. State approving agencies are also responsible for ascertaining whether an institution or establishment at all times complies with its established standards relating to the course or courses which institutions and training establishments have been approved to offer.

(c) The Administrator will furnish State approving agencies with copies of such Veterans' Administration informational and instructional material as may aid them in carrying out the provisions of this law.

§ 21.2153 *Reimbursement of expenses under Public Law 550, 82d Congress—* (a) *Contracts or agreements.* If a State or local agency desires to be paid for rendering the service contemplated by the law contracts or agreements will be negotiated with State agencies to pay such State agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in:

(1) Rendering necessary services in ascertaining the qualifications of educational institutions and training establishments for furnishing courses of training to eligible veterans under VA Regulations, and in the supervision of such educational institutions and training establishments, and

(2) Furnishing any other services in connection with the law as may be requested by the Administrator.

(b) *Salaries and travel.* Such contracts or agreements will provide for reimbursement of the reasonable and necessary expenses of salaries at not to exceed the rates of pay for other employees of the State for equivalent duties and responsibilities and the reasonable and necessary expenses of travel at not to exceed expenses allowable under the provisions of applicable State laws or other State regulations for transportation and per diem allowances or actual expense in lieu of per diem.

(c) *Other expenses.* Reimbursement will not be provided by the Veterans' Administration for expenditures other than salaries and travel of personnel required to perform the services required under the contract. Reimbursement will not be authorized directly or indirectly for supplies, equipment, printing, postage, telephone, rentals, and other miscellaneous expenses.

(d) *Inspection, approval and supervision.* Reimbursement will not be provided under these agreements:

(1) For the salaries and travel of personnel when they are engaged in activi-

ties other than those in connection with the inspection, approval or supervision of educational institutions and on-the-job training establishments, except for expenses for attending out-of-state meetings and conferences where such travel is performed upon prior approval and at the request of the Administrator.

(2) For the supervision of educational institutions or training establishments which do not have veterans in training under the law.

(3) Where payment will constitute a duplication of payment made under other contracts.

(4) For the preparation of instructional material.

(e) *Reimbursement.* Reimbursement under each such contract or agreement shall be conditioned upon compliance with the standards and provisions of the contract and the law.

(1) If it is established by the manager of the regional office that the State has failed to comply with the standards and provisions of the law and with the terms of the reimbursement agreement between the State and the Administrator, the manager shall withhold reimbursements for claimed expenses under the contract pending resolution of the matter to the satisfaction of the State and the Veterans' Administration. All such matters shall be reported to the assistant administrator for vocational rehabilitation and education if they are not satisfactorily settled.

APPROVAL OF COURSES OF EDUCATION AND TRAINING

§ 21.2200 *Apprentice or other training on-the-job; definition.* (a) A course which is pursued at a business or other establishment providing apprentice or other training on-the-job (as distinguished from a course of education or training in an educational or training institution), including any such course under the supervision of a college or university or any State department of education, or any State apprenticeship agency or any State board of vocational education or any joint apprentice committee or the Bureau of Apprenticeship established in accordance with Public Law 308, 75th Congress, or any agency of the Federal Government authorized to supervise apprentice or other training on-the-job.

(1) *Apprentice course.* Any training on-the-job course of not less than two years in length which has been established as an apprentice course under the supervision of a joint apprentice committee or the Federal Bureau of Apprenticeship or which has been set up as an apprentice course by the training establishment and, although not under the supervision of such committee or Bureau, nevertheless has been approved as an apprentice course for purposes of the law by the State approving agency or by the Administrator and which in addition satisfies the requirements of § 21.2201 (b).

(2) *Other training on-the-job course.* Any training on-the-job course of not more than two years in length which does not qualify as an apprentice course, as defined in subparagraph (1) of this paragraph, but which otherwise satisfies the requirements of § 21.2201 (b).

§ 21.2201 *Approval of courses of apprentice or other training on-the-job—*(a) *Application required.* Any training establishment desiring to furnish a course of apprentice or other training on-the-job shall submit a written application to the appropriate State approving agency setting forth the following:

(1) Title and description of the specific job objective for which the eligible veteran is to be trained;

(2) The length of the training period;

(3) A schedule listing various operations or major kinds of work or tasks to be learned and showing for each job operations or work, tasks to be performed, and the approximate length of time to be spent on each operation or task; the schedule must be in such terms and in such detail as will enable the State approving agency to determine whether, in a genuine sense, the completion of training under the schedule will qualify the trainee for the job;

(4) The wage or salary to be paid at the beginning of the course of training, at each successive step in the course, and at the completion of training;

(5) The entrance wage or salary paid by the establishment to employees already trained in the kind of work for which the veteran is to be trained; and

(6) The number of hours of supplemental related instruction required.

(b) *Criteria for approval.* The appropriate State approving agency shall investigate the courses offered and training facilities of each training establishment which submits an application in accordance with paragraph (a) of this section and may approve the course or courses covered by such application only when its investigation shows that the training establishment has met the following criteria:

(1) The training content of the course is adequate to qualify the eligible veteran for appointment to the job for which he is to be trained.

(2) There is reasonable certainty that the job for which the eligible veteran is to be trained will be available to him at the end of the training period. This requires assurance from the employer-trainer that he has such job in his establishment and that, except for unforeseeable and unexpected eventualities or unsatisfactory conduct or progress on the part of the veteran, he will appoint the veteran to that job upon the satisfactory completion of the course. Such assurance will consist of a written statement by the employer-trainer in the training agreement.

(3) The job is one in which progression and appointment to the next higher classification are based upon skills learned through organized training on the job, not on such factors as length of service and normal turnover.

(4) The wages to be paid the eligible veteran for each successive period of training are not less than those customarily paid in the training establishment and in the community to a learner in the same job who is not a veteran.

(5) The job customarily requires a period of training of not less than 3 months and not more than 2 years of full-time training, except that this provision shall not apply to apprentice training.

(6) The length of the training period is no longer than that customarily required by the training establishment and other training establishments in the community to provide an eligible veteran with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran will need to learn in order to become competent on the job for which he is being trained.

(7) Provision is made for related instruction for the individual eligible veteran who may need it.

(8) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(9) Adequate records are kept to show the progress made by each eligible veteran toward his job objective. This requires that the employer-trainer maintain a record of the veteran's accomplishments and failures as he proceeds in the course so that the current state of his advancement therein will be clearly indicated by the employer-trainer's records.

(10) Appropriate credit is given the eligible veteran for previous training and job experience, whether in the military service or elsewhere, his beginning wage adjusted to the level to which such credit advances him and his training period shortened accordingly and provision is made for certification by the training establishment that such credit has been granted and the beginning wage adjusted accordingly. No course of training will be considered bona fide if given to an eligible veteran who is already qualified by training alone, by experience alone or by a combination of both for the job objective.

(i) A veteran will be considered already qualified for the job objective when:

(*a*) He has at any time in the past been employed as a qualified workman in such a job.

(*b*) He has completed a recognized course of apprenticeship or he has completed a course of training on the job other than apprenticeship which is customarily accepted as qualifying for employment in the objective either in the area where he was trained or where he requests to be trained.

(*c*) He has completed a school course for that objective which is one of the professional objectives listed in the Dictionary of Occupational Titles, Code No. 0–01.00 through 0–39.99, e. g.: In no case will a veteran who has completed a school course for a professional objective, such as engineer, pharmacist, accountant, teacher, etc., be placed in training on the job for such objective except that:

(*1*) An eligible veteran training for the objective, Physician (Doctor of Medicine or Doctor of Osteopathy), may upon graduation from school be provided an internship, and

(2) An eligible veteran training for the objective, Lawyer, on graduation from law school may pursue in the States of Pennsylvania, New Jersey, Delaware, Vermont, Rhode Island, or other State having similar requirements, a bona fide course of on-the-job training for the study of clerkship of 6 or 9 months' duration required in such State to be pursued in a law office as a condition precedent to admission to the bar examination and to practice.

(d) He has completed a course for that objective below the professional level in a school whose graduates commonly obtain employment in that job objective without a course of on-the-job training, e. g., completion of a course in a school of watchmaking whose graduates do so qualify. This will not preclude apprenticeship or other training on the job for objectives usually reached through apprenticeship or other training on the job where an eligible veteran has pursued a course of school training which gives him some theory or shop practice in the objective but which does not qualify him for meeting employment requirements, provided the employer-trainer, as required by section 251 (b) (10) of Public Law 550, 82d Congress, gives him appropriate credit for the training pursued in school.

(e) He is appointed to that job under Federal, State or municipal civil service and on the regular payroll of the Federal Government, State or municipality, even though as an employee he receives some in-service training, e. g., the job of policeman or fireman.

(f) He is performing the job operations of his objective and receiving little or no instruction other than what is commonly provided by the establishment to qualified employees in the occupation; e. g., an eligible veteran who is performing as a salesman for a company, with the majority of his time being spent selling the goods or services of the company unaccompanied by any trainer.

(g) He is performing the job operations of his objective in essentially the same manner as a journeyman in the occupation, and is not receiving organized instruction; e. g., an eligible veteran who is performing as a barber or apprentice barber and is assigned to a chair and serves all who come to his chair in the same way that customers are served by the journeymen barbers in the same shop.

(11) A signed copy of the training agreement for each eligible veteran, including the training program and wage scale as approved by the State approving egency, is provided to the veteran and to the Veterans' Administration regional office and the State approving agency by the employer. Additionally, the training agreement will include: A certification that there is reasonable certainty that the job for which the veteran is to be trained will be available to him at the end of the training period; a certification of whether related instruction is needed and if so, what provision has been made for obtaining it; a certification of what credit has been given the veteran for previous training or experience.

(12) Upon completion of the course of training furnished by the training establishment, the eligible veteran is given a certificate by the employer indicating the length and type of training provided and that the eligible veteran has completed the course of training on the job satisfactorily.

(13) That the course meets such other criteria as may be established by the State approving agency over and above the preceding requirements so long as such additional criteria do not abrogate the twelve specific criteria in this paragraph.

§ 21.2202 *Institutional on-farm training.* (a) The appropriate State approving agency may approve a course of full-time institutional on-farm training when it satisfies the following requirements:

(1) The course combines organized group instruction in agricultural and related subjects of at least 200 hours per year and not less than 8 hours in any one month at an educational institution, with supervised work experience on a farm or other agricultural establishment. The term "farm or other agricultural establishment" shall mean any place on which the basic activity is the cultivation of the ground, such as the raising and harvesting of crops, including fruits, vegetables, pastures, and/or the feeding, breeding, and managing of livestock, including poultry, and other specialized farming commonly followed in the area. Within the meaning of Public Law 550, 82d Congress, institutional on-farm training will not apply to training in those establishments which are engaged primarily in the processing, distribution, or sale of agricultural products, or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards, florist shops, and so forth. Etablishments desiring to offer such training must obtain approval of such courses as on the job training.

(2) The eligible veteran will perform a part of such course on a farm or other agricultural establishment under his control.

(3) The course is developed with due consideration to the size and character of the farm or other agricultural establishment on which the eligible veteran will receive his supervised work experience and to the need of such eligible veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farming management, and the keeping of farm and home accounts. The duration of an approved course shall be as long as, but no longer than, necessary to attain the objective of the course outlined to meet the particular needs of the individual veteran. The carrying out of this requirement makes it mandatory that the course be developed to fit the needs of the veteran in his individual farming situation and consequently, that the length of the training period shall be ascertained by developing an individual plan with training goals and training practices clearly stated and then by determining how long the realization of the plan will require.

(4) The eligible veteran will receive not less than 100 hours of individual instruction per year, not less than 50 hours of which shall be on such farm or other agricultural establishment with not less than 2 visits by the instructor to such farm in any such month. Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products.

(5) The eligible veteran will be assured of control of such farm or other agricultural establishment (whether by ownership, lease, management agreement, or other tenure arrangement) until the completion of his course. This means that the farm must be under the veteran's operational control so he will be free to carry out the teachings of his training program without interference from anybody else. His control must be such that he is free to fertilize, cultivate, select and grow crops, raise livestock, market his shares, etc., employing the improved practices which are the foundation of his course of training. The number of veterans who may be processed into training on a single farm ordinarily will be limited to one. However, in a particular case, where the training institution and the Veterans' Administration have found that conditions are so highly favorable as to assure the success of two veterans for training and subsequent self-employment on the same farm, two, but not more than two, may be processed into or continued in training on a single farm provided the training situation with reference to each veteran meets in every respect the criteria set forth in Public Law 550, 82d Congress, and provided further, that there is furnished documentary evidence that the two veterans have entered into a bona fide partnership agreement which provides for equal authority between the partners in the management and operation of the farm.

(6) Such farm or other agricultural establishment shall be of a size and character which:

(i) Will, together with the group-instruction part of the course, occupy the full time of the eligible veteran,

(ii) Will permit instruction in all aspects of the management of the farm or other agricultural establishment of the type for which the eligible veteran is being trained, and will provide the eligible veteran an opportunity to apply to the operation of his farm or other agricultural establishment the major portion of the farm practices taught in the group instruction part of the course, and

(iii) Will assure him a satisfactory income for a reasonable living under normal conditions at least by the end of his course.

(7) Prior to approval of enrollment in such course the institution and the veteran shall certify to the Veterans' Administration that the training offered

does not repeat or duplicate training previously received by the veteran.

(8) The institutional on-farm training meets such other fair and reasonable standards as may be established by the State approving agency over and above the preceding seven requirements but not abrogating any of those requirements.

§ 21.2203 *Approval of accredited courses*—(a) *Accredited courses.* (1) Courses offered by educational institutions may be approved as accredited courses when:

(i) Such courses have been accredited and approved by a nationally recognized accrediting agency or association; this includes courses above secondary level offered by the accredited departments or schools of a college or the accredited departments, schools or colleges of a university for credit toward a collegiate certificate or degree and also secondary level courses offered for Carnegie units of credit by accredited secondary schools.

(ii) Credit for such courses are approved by the State department of education for credit toward a high school diploma;

(iii) Such courses are conducted under the act of February 23, 1917 (Smith-Hughes Act), as amended (39 Stat. 927), or the Vocational Education Act of 1946 (George-Barden Act); or

(iv) Such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

(2) An accrediting agency or association to be considered as nationally recognized shall appear on the list of nationally recognized accrediting agencies or associations (including nationally recognized regional accrediting associations which Public Law 550, 82d Congress, requires the Commissioner of Education to publish as indication of the accrediting agencies which he determines to be reliable authority as to the quality of training offered by an educational institution.) The accreditation indicated by the list of nationally recognized accrediting agencies and associations listed by the Commissioner may be utilized by the State approving agency for approving courses specifically accredited and approved by such accrediting associations and agencies.

(3) An institution desiring to enroll veterans under Public Law 550, 82d Congress, in accredited courses shall make application for approval of such courses to the State approving agency and shall submit copies of its catalog or bulletin together with such other information as will make it possible for the State approving agency to determine as a condition to approving the course whether:

(i) Adequate records are kept by the educational institution to show the progress of each eligible veteran enrolled under this law, and

(ii) The educational institution maintains a written record of the previous education and training of the veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training with the training period shortened proportionately and the veteran and the regional office so notified.

§ 21.2204 *Approval of non-accredited courses*—(a) *Non-accredited courses.* (1) Non-accredited courses are any courses (other than institutional on-farm training) which are not approvable as accredited courses under the standards specified in Public Law 550, 82d Congress, which are offered by a public or private, profit or nonprofit, educational institution. These include non-accredited courses offered by extension centers or divisions, or by vocational or adult education departments of institutions of higher learning and non-accredited courses offered by secondary schools.

(2) Any educational institution desiring to enroll veterans under Public Law 550, 82d Congress, in non-accredited courses shall submit a written application to the appropriate State approving agency for approval of such course.

(i) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official of the institution and shall include the following:

(*a*) Identifying data, such as volume number and date of publication;

(*b*) Names of the institution and its governing body, officials and faculty;

(*c*) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(*d*) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(*e*) Institution policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance;

(*f*) Institution policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student;

(*g*) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(*h*) Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(*i*) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(*j*) A description of the available space, facilities, and equipment;

(*k*) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(*l*) Policy and regulations of the institution relative to granting credit for previous education and training.

(ii) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(*a*) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and private schools in the State, with recognized accepted standards.

(*b*) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(*c*) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(*d*) The institution maintains a written record of the previous education and training of the veterman and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the veteran and the Administrator so notified.

(*e*) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absences, grading policy, and rules of operation and conduct will be furnished the veteran upon enrollment.

(*f*) Upon completion of training, the veteran is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(*g*) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(*h*) The institution complies with all local, city, county, municipal, State and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(*i*) The institution is financially sound and capable of fulfilling its commitments for training.

(*j*) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency:

(*1*) Has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and

(2) Has, if such an order has been issued, given due weight to that fact.

(*k*) The institution does not exceed its enrollment limitations as established by the State approving agency.

(*l*) The institution's administrators, directors, owners and instructors are of good reputation and character.

(m) The institution has and maintains a policy for the refund of unused portion of tuition, fees, and other charges in the event the veteran fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the veteran for tutition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(n) Such additional criteria as may be deemed necessary by the State approving agency.

§ 21.2205 *Approval of cooperative courses.* (a) The courses which are referred to in Public Law 550, 82d Congress, as the full-time program of education and training consisting of institutional and on-the-job training, with the on-the-job training portion strictly supplemental to the institutional portion, may be approved as cooperative courses when the school offering such courses submits to the State approving agency along with its application statements of fact showing at least the following:

(1) That the alternate in-school periods of the course are at least as long as the alternate on-the-job periods;

(2) That the courses are set up as cooperative courses in the school catalog or other literature of the school;

(3) That the school itself arranges with the employer's establishment for providing the alternate on-job periods of training on such basis that the on-job portion of the course will be training in a real and substantial sense and will supplement the in-school portion of the course;

(4) That the school arranges directly with the employer's establishment for placing the individual student in that establishment and exercises supervision and control over the student's activities at the establishment to an extent that assures training in a true sense to the student; and

(5) That the school grants credit for the on-job portion of the course which credit although not necessarily in terms of credit hours will as a minimum be credit granted by the school for completion of a part of the work required for granting a degree or certificate to any student enrolled in the course.

§ 21.2206 *Approval of correspondence courses*—(a) *Definition.* A course conducted by mail, consisting of a series of written lesson assignments furnished by a school to the student for study and requiring the submittal to the school by the student of written answers to a series of questions and solutions to specified problems or work projects which are corrected and graded by the school and returned to the trainee.

(b) *Approval.* (1) A correspondence school desiring to enroll veterans under Public Law 550, 82d Congress, for correspondence courses may be approved when it meets the provisions of section 253 or 254 of the law, as applicable and when its application together with any other material such as specimen copies of the course as the approving agency may require, demonstrates that the course is satisfactory in all of the following elements and any others which the approving agency may specify:

(i) Each portion of the course that is offered as a lesson to be paid for shall show upon inspection information of such kind, scope, and organization that it is clearly appropriately valuable and ample to cover substantially the subjects treated;

(ii) Based upon the inspection of the individual lessons of the course as in subdivision (i) of this subparagraph, the course clearly is composed of information of such kinds and scope that it affords adequate coverage of the field referred to and is adequate for the claimed purpose or objective of the course; also, the organization of the material in the total course is such as to show good instructional arrangement as to sequence of subject matter, etc;

(iii) The kind, amount and instructional value of the service to be performed by the school on each lesson sent in by the student;

(iv) The course does not require:

(*a*) Unnecessary duplication of material;

(*b*) Furnishing high-cost supplies not actually needed or before they are actually required for use in the course or which amount to a bonus for the veteran's enrollment; and

(*c*) Furnishing books and other supplies to be paid for by the veteran which are not adequately identified and are not clearly necessary for the student to own personally as against being furnished for the student's temporary use and return to the school.

(2) Whenever the State approving agency approves a correspondence course for training of veterans under the law, it shall immediately notify the Director, Training Facilities Service, Veterans' Administration, Washington 25, D. C., clearly identifying the correspondence school, the course or courses which have been approved and the educational or vocational objective of each approved course.

§ 21.2207 *Notice of approval of courses.* (a) The State approving agency, upon determining that an educational institution or establishment has complied with all the requirements of Public Law 550, 82d Congress, will issue a letter to such institution or establishment setting forth the courses which have been approved for the purposes of the law and will furnish an official copy of such letter and attachments and will furnish later any subsequent amendments to the Veterans' Administration. In the case of the approval of a correspondence course, the State approving agency will forward notice of approval to the Director, Training Facilities Service, Veterans' Administration, Washington 25, D. C. In all other cases the notice of approval to the Veterans' Administration will be forwarded to the regional office having jurisdiction over the territory in which the institution or establishment is located. The letter of approval for each institution shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) Date of letter and effective date of approval of courses;

(2) Proper address and name of each educational institution or training establishment;

(3) Authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;

(4) Name of each course approved;

(5) Where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;

(6) Signature of responsible official of State approving agency; and

(7) Such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

NOTE: In respect to institutions of higher learning the letter of approval may identify accredited courses and subjects approved by reference to page numbers in the catalog or bulletin of the institution in lieu of a listing by name as required in subparagraph (4) of this paragraph.

(b) In addition to the copy of the approval letter and attachments as set forth in paragraph (a) of this section the State approving agency will furnish to the Veterans' Administration regional office having jurisdiction over the territory in which the institution or establishment is located, one copy of the approved application submitted by the institution or establishment as follows:

(1) The application required to be submitted by the training establishment under the provisions of section 251 (a) of Public Law 550, 82d Congress.

(2) The application required to be submitted by the educational institution for non-accredited courses approved under authority of section 254 (b) of the law.

§ 21.2208 *Disapproval of courses and discontinuance of allowances under Public Law 550, 82d Congress.* (a) Any course approved for the purposes of the Law, which fails to meet any of the requirements thereof shall be immediately disapproved by the appropriate State approving agency. The State approving agency is required to notify any educational institution or training establishment of the disapproval of any course or courses by registered letter of notification and to secure a return receipt. It is incumbent upon the State approving agency to investigate the conduct of courses and to take immediate appropriate action in each case in which it is found that the conduct of a course in any manner fails to comply with the requirements of the law.

(b) It is required that each State approving agency shall also immediately notify the appropriate Veterans' Administration regional office of each course which it has disapproved under the provisions of the law.

(c) In compliance with provisions of the law the Veterans' Administration regional office shall immediately notify the State approving agency of its action in each case wherein any educational in-

stitution or training establishment is disapproved by the Veterans' Administration for furnishing courses under the provisions of Part VII of Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12).

(d) Notwithstanding the approval of a course by a State approving agency, the Administrator is charged with the responsibility to discontinue the education and training allowance of any eligible veteran if he finds that the course of education or training in which such veteran is enrolled fails to meet any of the requirements of the law, or if he finds that the educational institution or training establishment offering such course has violated any provision of the law. In any case in which the regional office reasonably establishes that a course offered by an educational institution or training establishment fails to meet any of the requirements or that the institution or training establishment has violated any provisions of the law, the manager shall suspend further payments of education and training allowances to veterans enrolled in such course or institution effective on the first day of the following month. Immediately upon such determination, the manager shall forward to the State approving agency a summary of the facts and his conclusions in order that the State approving agency may take appropriate action with respect to its continued approval of the institution or training establishment. The manager's letter will include a request for a report within 15 days from the State approving agency as to the action taken. In any case in which the State approving agency fails to act within 15 days or continues the approval of the course or courses where in the opinion of the manager the cause for the suspension of payments has not been removed, the manager will arrange for a hearing before a Board of Review as provided in this paragraph to be conducted within an interval of not more than 7 calendar days from the date the report was due from the State or the date of receipt of notification of the State's continued approval. Such hearing will afford an opportunity to the institution or establishment to present arguments or briefs in the matter of the asserted failure of the course or courses to meet any of the requirements of the law or in the matter of violation by the institution or establishment of any of the provisions of the law. The membership of the Board of Review shall be comprised of three staff employees of the regional office selected by the manager, one of whom shall be the chief, vocational rehabilitation and education division. The Board is empowered to make the final decision of the Veterans' Administration as to whether the course offered by the educational institution or training establishment fails to meet any of the requirements or has violated any of the provisions of the law. If payments of allowances are discontinued because of such finding, the effective date shall be the date on which they were originally suspended. If payments of allowances are not discontinued, they will be resumed as of the date of suspension or the date the cause for suspension was removed, whichever is the later.

MISCELLANEOUS PROVISIONS

§ 21.2300 *Policy of providing educational and vocational guidance.* (a) It will be the policy of the Veterans' Administration to encourage eligible veterans to obtain educational and vocational guidance either from non-profit school, college, or community counseling centers or through the counseling service provided by the Veterans' Administration before finally determining their objectives and outlining their programs of education or training.

(1) In accordance with the above policy, counseling will be provided upon request to eligible veterans either prior to the initiation of a program of education or training, while pursuing such program, or during a period of valid interruption.

(i) A veteran whose problems of personal adjustment are such as to interfere with satisfactory attainment of vocational readjustment will, upon request, be provided personal adjustment counseling. This provision will be applicable when such counseling is needed:

(*a*) In connection with providing educational and vocational guidance;

(*b*) While a veteran is pursuing a program of education or training under Public Law 550, 82d Congress, or during a period of valid interruption of such program of education or training.

(2) Travel at Government expense may be authorized when the applicant for education or training under Public Law 550, 82d Congress, is required by the Veterans' Administration, in accordance with VA Regulations, to report to a field station or to another designated place for educational and vocational guidance. The travel order will provide for return to the place from which travel was authorized. Travel at Government expense will not be authorized for veterans who voluntarily request educational and vocational guidance or personal adjustment counseling under this law.

(3) For the purpose of this section, educational and vocational guidance will include the application, as appropriate in invidual cases, of the vocational counseling techniques and procedures which have been established by Veterans' Administration Regulations and manuals for counseling veterans who are eligible for benefits under Part VII or Part VIII, Veterans Regulation I (a), as amended (38 U. S. C. ch. 12).

§ 21.2301 *Control by agencies of the United States.* The law provides that no department or agency or officer of the United States, shall exercise any supervision or control, whatsoever, over any State approving agency, State educational agency, or State apprenticeship agency, or any educational institution or training establishment. However, the provisions of this section shall not be construed to abrogate the responsibility of the Administrator under the law:

(a) To define full time training in the case of certain courses of education or training,

(b) To determine whether overcharges were made by an educational institution and to disapprove such an educational institution for enrollment of any veteran not already enrolled therein,

(c) To determine whether the State approving agencies under the terms of contracts or reimbursement agreements are complying with the standards and provisions of the law,

(d) To examine the records and accounts of educational institutions and training establishments which are required by the law to be made available for examination by duly authorized representatives of the government, and

(e) To disapprove schools or courses for reasons stated in the law or to approve schools or courses notwithstanding lack of State approval.

§ 21.2302 *Conflicting interests.* (a) Public Law 550, 82d Congress, provides that any Veterans' Administration employee who owns any interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible veteran is pursuing a course of education under the law shall be immediately dismissed, unless it is decided after a public hearing that no detriment will result to the United States or to eligible veterans by reason of such interest or connection of such employee. When there are reasonable grounds to believe that an employee may have violated this law, action will be initiated immediately in accordance with the provisions of Veterans' Administration personnel procedures, for the purpose of reaching a decision as to whether or not there was a statutory violation and if requested by the employee whether or not a waiver may be justified.

(b) When the manager of a regional office determines that an officer or employee of a State approving agency has, while he was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible veteran was pursuing a course of education or training under Public Law 550, 82d Congress, he shall notify the State agency in writing that unless he is notified within 15 days of action to terminate the services of such employee he will suspend payments under contract to the State as of the beginning of the month in which the violation was reported to the State. The manager will submit the case to the assistant administrator for vocational rehabilitation and education with pertinent comments and recommendations. If the State approving agency shall without delay take such steps as may be necessary to terminate the employment of such person payments will not be suspended. Where payments are suspended they will be resumed by the regional office manager only after he receives evidence of the termination of such employment in which case payments will be resumed effective as of the beginning of the month following such termination.

(c) There is no authority for the State approving agency to approve or to con-

tinue the approval of any course offered by an educational institution operated for profit if it is found that any officer or employee of the Veterans' Administration or in the office of education or in the State approving agency owns an interest in or receives any wages, salary, dividends, profits, gratuities, or services from such institution. Such course, if approved, shall be disapproved. Where the appropriate agency believes that an exception is desirable, that agency may request a waiver of the requirement that the course be disapproved and will forward the request together with facts and a detailed justification to the assistant administrator for vocational rehabilitation and education through the regional office where the manager will add appropriate comments and recommendations. When a regional office manager determines that there has been a violation of the provisions of this paragraph he will submit his findings together with his recommendations to the assistant administrator for vocational rehabilitation and education.

(d) The Administrator will determine, based upon such evidence as he may require, whether to waive the provisions of section 264, Public Law 550, 82d Congress. Where it is found that paragraphs (b) and (c) of this section are for application the regional office manager will be directed to issue notice to those concerned and to initiate board action similar to that provided for in Veterans' Administration personnel procedures except that at least 1 board member will not be an employee of the Veterans' Administration.

§ 21.2303 *Reports by institutions*—(a) *Certification forms required.* Educational institutions and training establishments shall promptly certify to the Veterans' Administration the enrollment or re-enrollment of an eligible veteran in a course of education and training under the provisions of Public Law 550, 82d Congress. Such educational institutions and training establishments are also required to submit for each veteran enrolled therein periodic Certifications of Training showing the veteran's continued pursuit of his course, attendance, conduct, progress, lessons completed in correspondence courses, instruction received in flight training courses, interruption or termination of training, and modifications of course which affect the charge against entitlement or the payment of education and training allowance (or tuition charges in a course pursued on less than ½ time basis).

(1) The enrollment or re-enrollment of a veteran shall be certified by the educational institution or training establishment on VA Form 7–1999.

(2) The periodic Certifications of Training shall be certified by the educational institution or training establishment on the following prescribed forms at the intervals stated:

(i) Accredited Courses and Institutional On-Farm Courses, VA Form 7–1996a, (Monthly).

(ii) Non-accredited Courses, Apprentice Training Courses, and Other On-the-Job Training Courses, VA Form 7–1996b, (Monthly).

(iii) Flight Courses, VA Form 7–1996c, (Monthly).

(iv) Correspondence Courses, VA Form 7–1996d, (Quarterly).

(b) *Reporting the interruption or termination of training*—(1) *Accredited courses.* Educational institutions offering accredited courses shall promptly notify the Veterans' Administration on VA Form 7–1996a to interrupt or terminate the training of any veteran enrolled therein in any case where:

(i) The veteran's training is interrupted or terminated by the veteran or by the educational institution; or

(ii) The veteran ceases to attend or ceases to maintain satisfactory conduct and progress in accordance with the regularly prescribed standards and practices of the educational institution.

(2) *Non-accredited courses (except correspondence courses).* Educational institutions offering non-accredited courses (except correspondence courses) shall promptly notify the Veterans' Administration on VA Form 7–1996b or VA Form 7–1996c, as appropriate, to interrupt or terminate the training of any veteran enrolled therein in any case where:

(i) The veteran's training is interrupted or terminated by the veteran or by the educational institution; or

(ii) The veteran ceases to attend or ceases to maintain satisfactory conduct and progress in accordance with the regularly prescribed standards and practices of the educational institution.

(3) *Correspondence courses.* Educational institutions offering correspondence courses shall promptly notify the Veterans' Administration on VA Form 7–1996d to interrupt or terminate the training of any veteran enrolled therein in any case where the veteran's training is interrupted or terminated by the veteran or by the educational institution.

(4) *Institutional on-farm training.* The school in which the veteran is enrolled to pursue his program of institutional on-farm training shall promptly notify the Veterans' Administration on VA Form 7–1996a to interrupt or terminate the veteran's training in any case where:

(i) The veteran's training is interrupted or terminated by the veteran or the school; or

(ii) The veteran ceases to devote his full time and attention to his farm; or

(iii) The veteran ceases to have managerial control of his farm as required by Public Law 550, 82d Congress; or

(iv) The veteran absents himself from his farm, thereby making himself unavailable for the prescribed individual instruction and farm work or he fails to attend the prescribed classes for group instruction at the school; or

(v) The veteran ceases to maintain satisfactory conduct and progress in accordance with the regularly prescribed standards and practices of the school.

(5) *Apprentice training or other training on-the-job.* The training establishment in which the veteran is enrolled and employed to pursue his program of apprentice or other training on-the-job shall promptly notify the Veterans' Administration on VA Form 7–1996b to interrupt or terminate the veteran's training in any case where:

(i) The veteran's training is interrupted or terminated by the veteran or the training establishment; or

(ii) The training establishment will no longer continue to pay the veteran-trainee at the wage or salary rate specified in the approved training program; or

(iii) The veteran ceases to attend or ceases to maintain satisfactory conduct and progress in accordance with the regularly prescribed standards and practices of the training establishment.

(c) *Administrative allowance for preparation of reports and certifications.* (1) The Administrator shall pay to each educational institution which is required to submit reports and certifications to the Veterans' Administration under Public Law 550, 82d Congress, an allowance at the rate of $1.50 per month for each eligible veteran enrolled in and attending such institution to assist the educational institution in defraying the expense of preparing and submitting such reports and certifications.

(2) The amount of such allowance to be paid each eligible institution shall be computed on the basis of $1.50 for each required certification of training actually received by the Veterans' Administration during the reporting period.

(3) No administrative allowance shall be paid to an educational institution for a veteran enrolled in a course pursued exclusively by correspondence.

(4) Payments will be made to the institution by the regional office upon presentation by the institution of properly prepared vouchers supported by certificates of training.

(5) No allowance shall be paid to such institution for the month or months during which such reports or certifications were not submitted as required by the Administrator.

§ 21.2304 *Liability of educational institution or training establishment on account of overpayments of education and training allowances.* If an overpayment to a veteran occurs under circumstances which render a school or training institution liable therefor under the provisions of section 266 of Public Law 550, 82d Congress, recovery will first be made or sought from the veteran in accordance with existing procedures for the collection of overpayments. If the veteran refuses or fails to repay the amount within 60 days after notice of the overpayment, the matter will be referred by the finance division to the registration and research section, which will notify the school of the intention to apply the liability provisions and the amount of the overpayment. If the school denies liability it may be afforded, if requested, a hearing by a Board of Review constituted as in § 21.2208. The decision of the Board may be appealed to the assistant administrator for Vocational Rehabilitation and Education by either the school or the manager. Liability determined administratively or by the Board—or appellate procedure—will be certified to the finance service for collection. In determining liability it must be shown that the failure to report excessive absences or discontin-

uance or interruption of a course resulting in overpayment was due to the willful or negligent act of the institution. Mere error will not create liability in respect to excessive absences or discontinuance or interruption of a course. However, as payments can be made only upon a joint certification of training, it is not apparent how overpayment could be caused in the event of discontinuance or interruption except upon a false certification. In the latter event, liability is not contingent upon willfullness or negligence, but simply upon falsity of the report. It does not appear that waiver as to a veteran would ever be proper in that he must join in the certification and hence, could not be without fault; but in any event waiver would not relieve the school of liability. If, however, recovery is had from the veteran, it must be credited to the school's liability and refunded to the school if its liability has been paid.

§ 21.2305 *Overpayments of education and training allowances and other Veterans' Administration benefits.* (a) Where a veteran has failed to make arrangements with the finance activity to restore or refund an outstanding overpayment of benefits made under laws administered by the Veterans' Administration, and due the Government, the registration and research activity may not thereafter re-enter the veteran into training so long as the overpayment is outstanding. In any such instance, the registration and research activity will be responsible for giving proper notification to the veteran and the institution.

(b) Where a veteran has been denied further education and training under the condition referred to in paragraph (a) of this section, and subsequently makes satisfactory arrangements with the finance activity to restore or refund an outstanding overpayment, the effective date of commencement of education and training allowance shall not be earlier than the date the veteran makes satisfactory arrangements to refund the overpayment.

§ 21.2306 *Examination of records.* (a) The records and accounts of educational institutions and training establishments pertaining to eligible veterans who received or are receiving education or training under Public Law 550, 82d Congress, shall be available for examination by duly authorized representatives of the Government. The records pertaining to eligible veterans receiving education or training under the law shall include accounting evidence of tuition and fees charged to and received from all students both veteran and non-veteran who are or have been enrolled in courses in which eligible veterans received or are receiving training under the law.

(b) Each educational institution which is enrolling or has enrolled eligible veterans under Public Law 550, 82d Congress, shall upon request by duly authorized representatives of the Veterans' Administration or other Federal agencies, make available for examination all appropriate records and accounts including but not limited to:

(1) Records and accounts which are evidence of tuition and fees charged to and received from all eligible veterans enrolled under the law and from similarly circumstanced non-veterans,

(2) Records of previous education or training of veterans enrolled under the law at the time of admission as students and records of advance credit, if any, granted by the institution at the time of admission, and

(3) Records of the veteran's grades and progress.

(c) The institutions approved under section 254 of Public Law 550, 82d Congress, will make available in addition to the records and accounts required in paragraph (b) of this section the following:

(1) Records of leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory conduct or attendance, and

(2) Records of refunds of tuition, fees and other charges made to a veteran who fails to enter the course or withdraws or is discontinued prior to completion of the course.

(d) The institutions approved under section 252 of Public Law 550, 82d Congress will make available in addition to the records and accounts required in paragraph (b) of this section the following:

(1) Records of the individual and organized group instruction furnished.

(e) Failure to make such records available shall be grounds for removing the school from the approved list.

§ 21.2307 *False or misleading statements.* The Veterans' Administration shall not make any payments under Public Law 550, 82d Congress, to any person found by the Veterans' Administration to have willfully submitted any false or misleading claim. In each case where the manager of a regional office finds that an educational institution or training establishment has willfully submitted a false or misleading claim, or where a veteran, with the complicity of an educational institution or training establishment has submitted such a claim, the manager shall make a complete report of the facts of the case to the appropriate State approving agency and where deemed advisable to the United States district attorney for appropriate action. The latter shall be done in accord with existing VA Regulations by the chief attorney or the solicitor if he is of the opinion there is a basis for either civil or criminal action.

§ 21.2308 *Criminal penalties and forfeitures; forfeiture of rights.* (a) Public Law 550, 82d Congress, makes provision for certain penalties upon a finding of willful, fraudulent acts, having to do with any claim for payment or any matter arising under that Law, including forfeiture or rights, claims and benefits thereunder and under Public No. 2, 72d Congress, as amended. When any employee of the Veterans' Administration discovers what is thought to be:

(1) A false or fraudulent affidavit, declaration, certificate, statement, voucher, endorsement, or paper or writing purporting to be such, concerning any claim or the approval of any claim for benefits under this Law, or pertaining to any matter arising under this Law, or

(2) Indication of the making or presentation of any paper required under this Law wherein a date has been willfully inserted other than the date upon which it was actually signed or acknowledged by the claimant, or

(3) A false certification by any person that a declarant, affiant or witness names in an affidavit, declaration, voucher, endorsement, or other paper or writing appeared personally before such person and was sworn thereto or that such person acknowledged the execution thereof, or

(4) Indication that any beneficiary under this Law has accepted and converted to his own use payments for any period during which he was not actually pursuing a course of education or training under this Law for which period payment was made, such employee shall refer the case to the chief attorney within a regional office, or the solicitor if in central office, who after such preliminary investigation as may be necessary, will determine

(5) Whether there is prima facie evidence of violation of a criminal statute, and

(6) Whether there is prima facie evidence of an offense subject to the forfeiture provisions of section 15, Public No. 2, 73rd Congress.

In the event of affirmative finding as to subparagraph (5) of this paragraph, the chief attorney, or the solicitor, will refer the case to the United States Attorney, or to the Department of Justice, as the case may be, for consideration or any necessary action; and if the finding as to subparagraph (6) of this paragraph, be in the affirmative, that is, that the forfeiture provisions of Public No. 2, 73rd Congress are involved, will refer the case to the appropriate adjudication officer for reference to the committee on waivers and forfeiture of central office.

§ 21.2309 *Appeals.* All questions respecting any adjudicatory determination under Public Law 550, 82d Congress, are subject to the right of the veteran to appeal to the Administrator of Veterans Affairs, and any notice of a determination adverse to the interest of the claimant shall include information respecting such right of appeal. All standing regulatory provisions governing notice of right of appeal, reception, development, processing and certification of appeal upon the part of the vocational rehabilitation and education activity of original jurisdiction are governing.

[SEAL] H. V. STIRLING,
*Deputy Administrator.*

[F. R. Doc. 52-8747; Filed, Aug. 7, 1952; 8:51 a. m.]

## TITLE 50—WILDLIFE

### Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 116—SOUTHEASTERN ALASKA AREA FISHERIES OTHER THAN SALMON

HERRING FISHERY

*Basis and purpose.* On the basis of information developed by field representatives of the Fish and Wildlife Service on the age composition of the commercial herring catches of Southeastern Alaska and the availability of the stocks to the commercial fishery it has been determined that effective conservation of these fisheries does not require retention of the present maximum quota of 100,000 barrels.

It also appears that the maximum quota of 100,000 barrels probably will be filled this date.

In order to permit optimum utilization of these fisheries Part 116, Southeastern Alaska Area Fisheries Other Than Salmon is amended in § 116.3 by deleting the first sentence of text.

This amendment shall be effective immediately.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

ALBERT M. DAY,
*Director.*

[F. R. Doc. 52-8723; Filed, Aug. 7, 1952; 8:46 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF THE TREASURY

### Bureau of Internal Revenue

### [ 26 CFR Part 29 ]

[Regs. 111]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DEC. 31, 1941

ALTERNATIVE TAX ON CORPORATIONS IN CASE OF CAPITAL GAINS; TREATMENT OF CAPITAL GAINS AND LOSSES

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 62 and 3791 of the Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791).

[SEAL] JOHN B. DUNLAP,
*Commissioner of Internal Revenue.*

In order to conform Regulations 111 [26 CFR Part 29] to section 123 (relating to the alternative tax on corporations in the case of capital gains) and section 322 (relating to the treatment of capital gains and losses) of the Revenue Act of 1951, approved October 20, 1951, such regulations are hereby amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 29.22 (n)-1, as added by Treasury Decision 5425, approved December 29, 1944, the following:

SEC. 322. CAPITAL GAINS AND LOSSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Technical amendments*—(1) *Amendment of section 22 (n).* Section 22 (n) (relating to the definition of adjusted gross income) is hereby amended by striking out the word "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by inserting after paragraph (6) the following new paragraph:

(7) *Long-term capital gains.* The deduction allowed by section 23 (ee).

* * * * *

(d) *Effective date.* The amendments made by this section shall be applicable only with respect to taxable years beginning on or after the date of the enactment of this act. * * *

PAR. 2. Section 29.22 (n)-1, as added by Treasury Decision 5425, is amended as follows:

(A) By striking the word "and" immediately preceding "(6)" in the paragraph (c) thereof.

(B) By striking the period at the end of paragraph (c) and inserting in lieu of such period a semicolon and the following: "and (7) for taxable years beginning on or after October 20, 1951, the deduction for long-term capital gains allowed by sections 23 (ee) and 117 (b)."

PAR. 3. There is inserted immediately after § 29.23 (bb)-1, as added by Treasury Decision 5873, approved December 7, 1951, the following:

SEC. 322. CAPITAL GAINS AND LOSSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Treatment of long-term capital gains and losses*—(1) *Amendment of section 23.* Section 23 (relating to deductions from gross income) is hereby amended by adding at the end thereof the following new subsection:

(ee) *Long-term capital gains.* In the case of a taxpayer other than a corporation, the deduction for long-term capital gains provided in section 117 (b).

* * * * *

(d) *Effective date.* The amendments made by this section shall be applicable only with respect to taxable years beginning on or after the date of the enactment of this act. * * *

PAR. 4. There is inserted immediately preceding § 29.117-1 the following:

SEC. 123. COMPUTATION OF ALTERNATIVE CAPITAL GAINS TAX (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

Section 117 (c) (1) (relating to alternative tax on corporations) is hereby amended by striking out the second paragraph and inserting in lieu thereof the following:

(A) A partial tax shall first be computed upon the net income reduced by the amount of such excess, at the rates and in the manner as if this subsection had not been enacted.

(B) There shall then be ascertained an amount equal to 25 per centum of such excess, except that in the case of any taxable year beginning after March 31, 1951, and before April 1, 1954, there shall be ascertained an amount equal to 26 per centum of such excess.

(C) The total tax shall be the partial tax computed under subparagraph (A) plus the amount computed under subparagraph (B).

SEC. 322. CAPITAL GAINS AND LOSSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Treatment of long-term capital gains and losses.*

* * * * *

(2) *Amendment of section 117 (b).* Section 117 (b) (relating to treatment of long-term capital gains and losses) is hereby amended to read as follows:

(b) *Deduction from gross income.* In the case of a taxpayer other than a corporation, if for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 per centum of the amount of such excess shall be a deduction from gross income. In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any), of the gains for the taxable year from sales or exchanges of capital assets, which, under section 162 (b) or (c), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

(b) *Alternative tax.* Section 117 (c) (2) (relating to alternative tax) is hereby amended to read as follows:

(2) *Other taxpayers.* If for any taxable year the net long-term capital gain of any taxpayer (other than a corporation) exceeds the net short-term capital loss, there shall be levied, collected, and paid, in lieu of the tax imposed by sections 11 and 12 (or, in the case of certain tax-exempt trusts, in lieu of the tax imposed by section 421), a tax determined as follows, if and only if such tax is less than the tax imposed by such sections:

(A) A partial tax shall first be computed upon the net income reduced by an amount equal to 50 per centum of such excess, at the rates and in the manner as if this subsection had not been enacted.

(B) There shall then be ascertained an amount equal to 25 per centum of the excess of the net long-term capital gain over the net short-term capital loss. In the case of any taxable year beginning after October 31, 1951, and before November 1, 1953, there shall be ascertained, in lieu of the amount computed under the preceding sentence, an amount equal to 26 per centum of the excess of the net long-term capital gain over the net short-term capital loss.

(C) The total tax shall be the partial tax computed under subparagraph (A) plus the amount computed under subparagraph (B).

(c) *Technical amendments.*

* * * * *

(2) *Amendment of section 117 (a).* Paragraphs (2) and (4) of section 117 (a) (relating to definitions of short-term capital gain and long-term capital gain) are each hereby amended by striking out "net income" and inserting in lieu thereof "gross income."

(3) *Amendment of section 117 (j).* Section 117 (j) (2) (A) (relating to gains and losses from involuntary conversion and from the sale or exchange of certain property used in the trade or business) is hereby amended to read as follows:

(A) In determining under this paragraph whether gains exceed losses, the gains described therein shall be included only if and to the extent taken into account in computing gross income and the losses described therein shall be included only if and to the extent taken into account in computing net income, except that subsection (d) shall not apply.

* * * * *

(d) *Effective date.* The amendments made by this section shall be applicable only with respect to taxable years beginning on or after the date of the enactment of this act. In determining under section 117 (e) of the Internal Revenue Code the amount of the carryover to a taxable year beginning on or after such date, of the capital loss for a taxable year beginning before such date, such amendments shall not affect the computation of the net amount of the net capital loss or of the net capital gain for any taxable year beginning before such date.

PAR. 5. Section 29.117–1, as amended by Treasury Decision 5893, approved April 4, 1952, is further amended as follows:

(A) By striking the second sentence of paragraph (b) thereof and inserting in lieu thereof the following: "Gains and losses from the sale or exchange of such property are not treated as gains and losses from the sale or exchange of capital assets, except to the extent provided in section 117 (j)."

(B) By striking from the fifth sentence of paragraph (b) thereof the words "is not subject to the limitations of section 117 (b), (c), and (d)" and inserting in lieu thereof the words "is not subject to the provisions of section 117."

(C) By striking from the fourth sentence of paragraph (d) thereof the words "are not subject to the percentage provisions of section 117 (b) and losses from such transactions are not subject to the limitation on losses provided in section 117 (d)" and inserting in lieu thereof the words "are not subject to the limitations provided in section 117".

(D) By striking from the paragraph (g) of such section (beginning "Gains and losses from the sale or exchange") the second sentence thereof.

(E) By striking the fifth sentence from paragraph (i) thereof.

PAR. 6. Section 29.117–2, as amended by Treasury Decision 5893, is further amended as follows:

(A) By striking all that precedes paragraph (b) thereof and inserting in lieu thereof the following:

§ 29.117–2 *Percentage of capital gain or loss taken into account; deduction for long-term capital gains; limitation on capital losses; net capital loss carryover*—(a) *General*—(1) *Taxable years beginning prior to October 20, 1951.* In computing the net capital gain, net capital loss, adjusted gross income, and net income of a taxpayer, other than a corporation, for a taxable year beginning prior to October 20, 1951 (the date of the enactment of the Revenue Act of 1951), only the following percentages of the gain or loss (computed under section 111, recognized under section 112, and taken into account without regard to section 117) upon the sale or exchange of a capital asset shall be taken into account:

(i) One hundred percent if the capital asset has been held for 6 months or less;

(ii) Fifty percent if the capital asset has been held for more than 6 months.

For instance, if unimproved real estate purchased by an individual for $20,000 is a capital asset and is sold by him for $25,000 after having been held for more than 6 months, only 50 percent of the recognized gain ($5,000), or $2,500, shall be taken into account in computing net income; or if such property is sold for $14,000, only 50 percent of the recognized loss ($6,000), or $3,000 shall be so taken into account. (In the case of nonresident alien individuals not engaged in trade or business within the United States, see section 211 and the regulations thereunder for the determination of the net amount of capital gains subject to tax with respect to taxable years beginning on or after January 1, 1950.)

(2) *Taxable years beginning on or after October 20, 1951.* (i) In computing gross income, adjusted gross income, net income, net capital gain, and net capital loss, for a taxable year beginning on or after October 20, 1951, 100 percent of any gain or loss (computed under section 111, recognized under section 112, and taken into account without regard to section 117) upon the sale or exchange of a capital asset shall be taken into account regardless of the period for which the capital asset has been held. Nevertheless, the net short-term capital gain or loss and the net long-term capital gain or loss must be separately computed. In computing the adjusted gross income or the net income of a taxpayer other than a corporation, if for any such taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of the excess is allowable as a deduction from gross income under sections 23 (ee) and 117 (b). For instance, if an individual realizes $2,000 of long-term capital gain and sustains $1,500 of short-term capital loss during the taxable year, the whole amount of the gain ($2,000) is includible in gross income. Since the net long-term capital gain exceeds the net short-term capital loss by $500, 50 percent of the excess ($250) is allowable as a deduction under section 23 (ee).

(ii) In the case of an estate or trust, for the purpose of computing the deduction allowable under section 23 (ee), any long-term or short-term capital gains which under section 162 (b) or (c) are includible in the gross income of its income beneficiaries as gains derived from the sale or exchange of capital assets must be excluded in determining whether for the taxable year of the estate or trust its net long-term capital gain exceeds its net short-term capital loss. For example, during 1952 a trust realized a gain of $1,000 upon the sale of stock held for 10 months. Under the terms of the trust instrument all of such gain must be distributed not later than 30 days after the close of the year to A, the sole income beneficiary. The trust is not entitled to any deduction with respect to such gain under sections 23 (ee) and 117 (b). On the other hand, assuming A had no other capital gains or losses in 1952, he would be entitled to a deduction of $500.

(B) By striking the second, third, and fourth sentences of paragraph (b) thereof and inserting in lieu of such sentences the following:

* * * Thus, where in a taxable year beginning prior to October 20, 1951, an individual taxpayer, having an ordinary net income of $5,000, has a loss of $4,000 from the sale of a capital asset which he held for more than 6 months, of which loss $2,000 (50 percent of $4,000) is taken into account, such net long-term capital loss of $2,000 is allowable only to the extent of $1,000, the remaining $1,000 being a net capital loss. If the taxpayer's ordinary net income had been $400 instead of $5,000, only $400 of the net long-term capital loss of $2,000 would have been allowed, leaving a net capital loss of $1,600. If the taxable year in this illustration were a taxable year beginning on or after October 20, 1951, the entire $4,000 loss would be taken into account as a net long-term capital loss, of which $1,000 and $400 would be allowable as deductions under the respective assumptions, and the net capital loss would be $3,000 and $3,600, respectively. (For carry-over of a net capital loss, see paragraph (c) of this section.) * * *

(C) By striking all that follows the first paragraph of (c) of such section and inserting in lieu thereof the following:

The practical operation of the provisions of section 117 (e) (1) may be illustrated by the following example:

*Example.* For the taxable years 1950 to 1954, inclusive, an individual is assumed to have a net short-term capital loss, net short-term capital gain, net long-term capital loss, net long-term capital gain, and net income as follows:

| | 1950 | 1951 | 1952 | 1953 | 1954 |
|---|---|---|---|---|---|
| Carry-over from prior years: | | | | | |
| From 1950 | | ($50,000) | ($29,500) | ($29,500) | |
| From 1952 | | | | (19,500) | ($13,000) |
| Net short-term loss (computed without regard to the carry-overs) | ($30,000) | (5,000) | (10,000) | | |
| Net short-term gain (computed without regard to the carry-overs) | | | | 40,000 | |
| Net long-term loss: | | | | | |
| 50 percent taken into account | (20,500) | | | | |
| 100 percent taken into account | | | (10,000) | (5,000) | |
| Net long-term gain: | | | | | |
| 50 percent taken into account | | 25,000 | | | |
| 100 percent taken into account | | | | | 15,000 |
| Ordinary net income (computed without regard to capital gains and losses) | 500 | 500 | 500 | 1,000 | 500 |
| Net capital gain (computed without regard to the carry-overs) | | 20,500 | | 36,000 | |
| Net capital loss | (50,000) | | (19,500) | | |
| Deduction allowable under sec. 23 (ee) | | | None | None | 1,000 |
| Net income (computed with regard to deduction allowable under sec. 23 (ee)) | | | None | None | 1,500 |

*Net Capital Loss of 1950*

The net capital loss is $50,000. This figure, computed by taking into account 100 percent of short-term gains and losses and 50 percent of long-term gains and losses, is the excess of the losses from sales or exchanges of capital assets over the sum of (1) gains from such sales or such exchanges, and (2) ordinary net income of $500. This amount may be carried forward in full as a short-term loss to 1951. However, in 1951 there was a net capital gain of $20,500, as defined by section 117 (a) (10) (B) and limited by section 117 (e) (1), against which this net capital loss of $50,000 is allowed in part. The remaining portion—$29,500—may be carried forward to 1952 and 1953 since there was no net capital gain in 1952. In 1953 this $29,500 is allowed in full against net capital gain of $36,000, as defined by section 117 (a) (10) (B) and limited by section 117 (e) (1). For 1952 and 1953 the net long-term capital loss is computed by taking into account 100 percent of gains and losses upon the sale or exchange of capital assets held for more than 6 months. However, in determining the amount of the capital loss carry-over ($29,500) to 1952 and 1953, the net capital loss for 1950 is computed by taking into account only 50 percent of gains and losses upon the sale or exchange of capital assets held for more than 6 months, and the net capital gain for 1951 is similarly computed.

*Net Capital Loss of 1952*

The net capital loss is $19,500. This figure, computed by taking into account 100 percent of both long-term and short-term gains and losses, is the excess of the losses from sales or exchanges of capital assets over the sum of (1) gains from such sales or exchanges and (2) ordinary net income of $500. This amount may be carried forward in full as a short-term loss to 1953. However, in 1953 there was a net capital gain of $6,500, as defined by section 117 (a) (10) (B) and limited by section 117 (e) (1), against which this net capital loss of $19,500 is allowed in part. The remaining portion—$13,000—may be carried forward to 1954. Since this amount is treated as a short-term capital loss in 1954 under section 117 (e) (1), the excess of the net long-term capital gain over the net short-term capital loss is $2,000. Half of this excess is allowable as a deduction under sections 23 (ee) and 117 (b). Thus, the taxpayer has a net income of $1,500 for 1954.

PAR. 7. Section 29.117–3 is amended as follows:

(A) By striking the second sentence of paragraph (a) thereof and inserting in lieu thereof the following: "For any taxable year beginning prior to October 20, 1951 (the date of the enactment of the Revenue Act of 1951), this alternative tax is the sum of (1) a partial tax, computed at the rates provided by sections 11 and 12 on the net income, excluding therefrom for this purpose the whole amount of such excess of the net long-term capital gain (determined by taking into account only 50 percent of the gains and losses upon the sale or exchange of capital assets held for more than 6 months) over the net short-term capital loss, plus (2) 50 percent of such excess. In the case of a taxable year beginning on or after October 20, 1951, this alternative tax is the sum of (1) a partial tax, computed at the rates provided by sections 11 and 12 on the net income reduced by an amount equal to 50 percent of the excess of the net long-term capital gain (determined by taking into account 100 percent of the gains and losses upon the sale or exchange of capital assets held for more than 6 months) over the net short-term capital loss, plus (2) 25 percent (or 26 percent if the taxable year begins after October 31, 1951, and before November 1, 1953) of the excess of the net long-term capital gain over the net short-term capital loss."

(B) By inserting immediately after the words "25 percent" in the second sentence of paragraph (b) thereof the following: "(or 26 percent if the taxable year begins after March 31, 1951, and before April 1, 1954)".

(C) By inserting immediately after the words "provisions of this section" in the first sentence of paragraph (c) thereof the following: "(other than those applicable to a taxable year beginning on or after October 20, 1951)".

PAR. 8. Section 29.117–6, as amended by Treasury Decision 5881, is further amended as follows:

(A) By striking from the first sentence of paragraph (a) thereof the words "the percentage of the recognized gain or loss to be taken into account under section 117 (b) from a short sale shall be computed" and inserting in lieu thereof the following: "whether the recognized gain or loss from a short sale is long-term or short-term capital gain or loss shall be determined".

(B) By striking from the second sentence of paragraph (a) thereof the words "100 percent of the recognized gain or loss would be taken into account under section 117 (b)" and inserting in lieu thereof the following: "the recognized gain or loss would be considered short-term capital gain or loss".

PAR. 9. Section 29.117–7, as amended by Treasury Decision 5881, is further amended as follows:

(A) By striking therefrom paragraphs (b) and (c) and inserting in lieu thereof the following:

(b) In determining whether such gains exceed such losses for the purposes of section 117 (j), losses upon the destruction in whole or in part, theft or seizure, requisition or condemnation of the property described in section 117 (j) are included whether or not there was a conversion of such property into money or other property. For example, if a capital asset held for more than six months, with an adjusted basis of $400, is stolen, and the loss from this theft is not compensated for by insurance or otherwise, the $400 loss is included in the computations under section 117 (j) to determine whether gains exceed losses. Furthermore, in making this computation for any taxable year, the gains and losses described in section 117 (j) are taken into account in full, that is, 100 percent of such gains and losses is taken into account. For example, if a taxpayer for a taxable year beginning before October 20, 1951, sustains a loss of $400 upon the sale under threat of condemnation of a capital asset, held for more than six months, such loss is taken into account for the purpose of section 117 (j) to the extent of $400, even though only $200 would be taken into account under section 117 (b), prior to its amendment by the Revenue Act of 1951, in computing net income. Similarly, the provisions of section 117 (d) limiting the deduction of capital losses are not applicable to exclude any losses from the computations under section 117 (j). With these exceptions, gains are included in the computations under section 117 (j) only to the extent that they are taken into account in computing gross income, and losses are included only to the extent that they are taken into account in computing net income. Thus, losses which are not deductible items under section 24 or section 118 are not included in the computations under section 117 (j). Similarly, if a taxpayer reports on the installment basis under section 44 the gain on the sale of property described in section 117 (j), only the portion of the gain reported under section 44 is included in the computations for such taxable year under section 117 (j). Any gains and losses which are not recognized under section 112 are not included in the computations under section 117 (j). Thus, if property is involuntarily converted into similar property, so that the gain on such conversion is not recognized under the provisions of section 112 (f), such gain is not included in the computations under section 117 (j).

(c) If it is determined under the above computations that the gains exceed the losses, all of such gains and losses are treated as gains and losses from the sale or exchange of capital assets held for more than six months. All such gains and losses are then subject to the limitations of section 117 (c) and (d), relating to the alternative tax in the case of capital gains and losses and the extent to which capital losses are allowed; and in the case of taxable years beginning prior to October 20, 1951, such gains and losses are taken into account only to the extent of 50 percent. If it is determined under the above computations that the gains do not exceed the losses, none of such gains and losses are treated as gains and losses from the sale or exchange of capital assets. Such gains and losses are then to be taken into account in full, and such losses are not subject to the limitations provided in section 117 (d). For example, if the taxpayer during the taxable year 1942 has losses of $1,000 on the sale of certain depreciable machinery used in his trade or business, held for more than six months, and a gain of $400 on the sale under threat of condemnation of a capital asset held for more than six months, such losses exceed such gain, and such losses and gain are not treated as losses and gain from the sale or exchange of capital asets. The gain on the sale of the capital asset would therefore be taken into account in full, instead of to the extent of 50 percent.

(B) By inserting in the second sentence of Example (1) thereof immediately following the words "section 117 (b)," the following: "prior to its amendment by the Revenue Act of 1951,".

(C) By inserting in the second sentence of the second paragraph of Example (1) thereof immediately following the words "section 117 (b)," the

following: "prior to its amendment by the Revenue Act of 1951,".

(D) By inserting in the second sentence of Example (3) thereof immediately following the words "section 117 (b)" the following: ", prior to its amendment by the Revenue Act of 1951,".

PAR. 10. There is inserted immediately preceding § 29.122–1 the following:

SEC. 322. CAPITAL GAINS AND LOSSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Technical amendments.*

* * * * *

(4) *Amendment of section 122 (d) (4).* Section 122 (d) (4) (relating to computation of net operating loss deduction) is hereby amended to read as follows:

(4) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from such sales or exchanges. The deduction provided in section 23 (ee) shall not be allowed.

* * * * *

(d) *Effective date.* The amendments made by this section shall be applicable only with respect to taxable years beginning on or after the date of the enactment of this act. * * *

PAR. 11. Section 29.122–3 is amended as follows:

(A) By striking subparagraph (4) from paragraph (a) thereof and inserting in lieu thereof the following:

(4) Gains and losses recognized upon sales or exchanges of capital assets held for more than 6 months shall be taken into account in full. The deduction provided in sections 23 (ee) and 117 (b), applicable to taxable years beginning on or after October 20, 1951, shall not be allowed;

(B) By striking out the words "(as defined in section 117 (a) (4))" from the second sentence of paragraph (d) (1) thereof.

PAR. 12. There is inserted immediately preceding § 29.162–1 the following:

SEC. 322. CAPITAL GAINS AND LOSSES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

* * * * *

(c) *Technical amendments.*

* * * * *

(5) *Amendment of section 162 (a).* Section 162 (a) (relating to computation of net income of estates and trusts) is hereby amended by striking out the semicolon and inserting in lieu thereof a period and the following: "Where any amount of the income so paid or set aside is attributable to gain from the sale or exchange of capital assets held for more than six months, proper adjustment of the deduction otherwise allowable under this subsection shall be made for any deduction allowable to the trust under section 23 (ee);".

(d) *Effective date.* The amendments made by this section shall be applicable only with respect to taxable years beginning on or after the date of the enactment of this act. * * *

PAR. 13. Section 29.162–1, as amended by Treasury Decision 5838, approved April 17, 1951, is further amended by inserting, immediately before the last sentence of paragraph (a) thereof, the following: "For any taxable year beginning before October 20, 1951 (the date of the enactment of the Revenue Act of 1951), if an amount of the income so paid or set aside is attributable to gain from the sale or exchange of capital assets held for more than six months, the amount of the deduction allowable under section 162 (a) must be determined with reference to the requirement that only 50 percent of such gains be included in gross income of the trust. See United States v. Benedict et al., Trustees, (1950) 338 U. S. 692. Similarly, in a taxable year beginning on or after October 20, 1951, where any amount of the income so paid or set aside for the charitable uses or purposes referred to or described in section 162 (a) is attributable to gain from the sale or exchange of capital assets held for more than six months, the amount of the deduction allowable under section 162 (a) must be determined with regard to the inclusion of 100 percent of such gains in gross income and with appropriate adjustment for the deduction provided in sections 23 (ee) and 117 (b) of 50 percent of the excess, if any, of the net long-term capital gain over the net short-term capital loss. See § 29.117–2 (a) (2). The application of these rules is illustrated in the following examples:

*Example (1).* Under the terms of a trust created by the will of a decedent, the trust net income (including capital gains) is to be distributed, one-half to certain individual beneficiaries and one-half to M University, an organization exempt from taxation under section 101 (6). During 1951 the trust has ordinary net income of $100,000, and in addition $100,000 of gains from the sale of capital assets held for more than six months, of which only 50 percent, or $50,000, is includible in gross income. The trust pays $100,000—one-half of its net income under the terms of the trust—to M University. The deduction allowable to the trust under section 162 (a) is limited to $75,000, since only 50 percent of the capital gains is included in gross income for tax purposes.

*Example (2).* During 1952 the trust referred to in example (1) also has ordinary net income of $100,000, plus $100,000 of gains from the sale of capital assets held for more than six months. In computing the gross income of the trust for tax purposes 100 percent of such gains are includible. M University receives a total of $100,000 from the trust in respect of the year 1952. However, the amount allowable to the trust as a deduction under section 162 (a) is subject to appropriate adjustment for the deduction allowable under section 23 (ee). In view of the distributions made to individual beneficiaries, the deduction allowable to the trust under section 23 (ee) is limited by the provisions of section 117 (b) to $25,000. Since the whole of this deduction is attributable to the distribution to M University, the deduction allowable in 1952 to the trust under section 162 (a) will be $75,000."

[F. R. Doc. 52–8746; Filed, Aug. 7, 1952; 8:51 a. m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### [ 25 CFR Part 130 ]

OPERATION AND MAINTENANCE CHARGES FOR THE WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON

NOTICE OF PROPOSED RULE MAKING

AUGUST 1, 1952.

Pursuant to section 4 (a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238; 5 U. S. C. 1001) and authority contained in the acts of Congress approved August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387) and by virtue of authority delegated by the Secretary to the Commissioner of Indian Affairs by Order No. 2508 approved January 11, 1949 (14 F. R. 259) and by virtue of authority delegated by the Commissioner of Indian Affairs to the Area Director by Order No. 551, Amendment No. 1, approved June 5, 1951 (16 F. R. 5457), notice is hereby given of intention to modify § 130.86 of Title 25, Code of Federal Regulations, dealing with the operation and maintenance charges on assessable lands under the Wapato Indian Irrigation Project, Yakima Indian Reservation, Washington, as follows:

By increasing the annual storage operation and maintenance charge per acre by 15 cents for each irrigable acre of Class B land within the Wapato Indian Irrigation Project.

The foregoing proposed charge is to become effective for the irrigation season 1953 and to continue in effect thereafter until further notice.

Section 130.86 as amended will, therefore, read as follows:

'§ 130.86 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U. S. C. 385, 387), the operation and maintenance charges on assessable lands under the Wapato Indian Irrigation Project, Yakima Indian Reservation, Washington, for the calendar year 1953 and subsequent years until further notice are hereby fixed as follows:

| | |
|---|---|
| (a) Minimum charges for all tracts in noncontiguous single ownership | $7.25 |
| (b) Flat rate upon all farm units or tracts for each accessable acre | 5.50 |
| (c) Storage operation and maintenance. For all lands with a storage water right, known as "B" lands, in addition to other charges per acre | .45 |

Interested persons are hereby given opportunity to participate in preparing the proposed amendments by submitting their views and data or argument in writing to E. Morgan Pryse, Area Director, Bureau of Indian Affairs, Building 1, Swan Island, Portland 18, Oregon, within 30 days from the date of publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

E. MORGAN PRYSE,
*Area Director.*

[F. R. Doc. 52–8741; Filed, Aug. 7, 1952; 8:49 a. m.]

## DEPARTMENT OF AGRICULTURE

### Production and Marketing Administration

### [ 7 CFR Part 101 ]

COTTON WAREHOUSE REGULATIONS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given in accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that the Secretary of Agriculture proposes to amend the Cotton Warehouse Regulations (7 CFR Part 101) under the United States Warehouse Act, as amended (7 U. S. C. 241–273) as follows:

1. A new § 101.3a would be added to read:

§ 101.3a *All facilities to be licensed or exempted.* All facilities within the same city or town used for the storage of cotton by an applicant for a warehouse license must qualify for a license and be licensed under the act if the applicant is to be licensed to operate as a cotton warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Secretary or his designated representative upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of nonfederally licensed facilities, there would be no likelihood of interchange or substitution of cotton stored in such facilities with cotton stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this paragraph, the applicant shall not be licensed under the act as a cotton warehouseman in the city or town in which the facilities in question are located. Each applicant for a warehouse license must apply for a license covering all facilities operated by him for the storage of cotton within the same city or town or for exemption as provided in this paragraph. If a licensed cotton warehouseman acquires any additional cotton storage facilities within the same city or town in which his licensed warehouse is located, he shall file promptly an application for a license or an exemption of the additional facilities. No cotton storage facility acquired by a licensed cotton warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of cotton until it qualifies for license and is licensed or is exempted as provided in this paragraph. If any one of the licensed cotton storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used for the storage of cotton until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of cotton by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of cotton.

2. Section 101.4 would be amended to read:

§ 101.4 *Grounds for not issuing a license.* A license for the conduct of a warehouse, or any amendment to a license, shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the storage of cotton, that the warehouseman does not possess a good reputation or is insolvent or incompetent to conduct such warehouse in accordance with the act and the regulations in this part, or that there is any other sufficient reason within the intent of the act for not issuing such license. If all the facilities operated for the storage of cotton by the applicant within the same city or town are not to be licensed under the act, the applicant shall not be licensed as a cotton warehouseman with respect to any of such facilities, unless an exemption of the facilities which are not to be licensed is granted as provided in § 101.3a.

3. Section 101.5 would be amended to read:

§ 101.5 *Net assets.* (a) The warehouseman operating a warehouse for which application for license has been made, shall have and maintain, above all exemptions and liabilities, total net assets liable for the payment of any indebtedness arising from the operation of the warehouse equal to at least 4 percent of the total value of the maximum number of bales of cotton that the warehouse could accommodate when stored in the manner customary to the warehouse, calculated upon the basis of the unit price for cotton announced annually by the Administrator: *Provided*, That a warehouseman who does not meet the net assets requirement specified in this paragraph may be licensed under the act and the regulations in this part if he furnishes the bond required under § 101.12 for such warehouseman. In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. Such insurance shall be in the form of lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the State in which the warehouse is located.

(b) In case a warehouseman has applied for a license to operate two or more warehouses in the same state, the maximum number of bales which all the warehouses to be licensed will accommodate when stored in the manner customary to the warehouses, shall be considered in determining whether the warehouseman meets the net worth requirements specified in paragraph (a) of this section.

(c) For the purposes of paragraphs (a) and (b) of this section only, capital stock as such shall not be considered a liability.

(d) In case a state agency licensed or applying for a license as provided in section 9 of the act has funds of not less than $500,000 guaranteeing the performance of obligations of the agency as a warehouseman, such funds shall be considered sufficient to meet the maximum net asset requirements of this section.

4. The third and fourth sentences in § 101.7 would be amended to read: "The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent; (b) has parted, in whole or in part, with his control over the licensed warehouse; (c) is in process of dissolution or has been dissolved; (d) has ceased to conduct such licensed warehouse; (e) has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse; (f) has made unreasonable or exorbitant charges for services rendered; (g) is operating in the same city or town in which his licensed warehouse facilities are located, any facility for storage of cotton which is not covered by a license or an exemption as provided in § 101.3a; or (h) has in any other manner violated or failed to comply with any provision of the act or the regulations in this part. Whenever any of the conditions mentioned in paragraphs (a) to (h) of this section shall come into existence, it shall be the duty of the warehouseman to notify immediately the Administrator of the existing condition."

5. Section 101.12 would be amended to read:

§ 101.12 *Amount of bond; additional amounts.* (a) Exclusive of any amount which may be added in accordance with paragraph (c) of this section, the amount of bond to be furnished by a warehouseman who has met the net assets requirement of § 101.5 (a) shall be at least 6 percent of the total value of the maximum number of bales of cotton that his warehouse could accommodate when stored in the manner customary to the warehouse, calculated upon the basis of the unit price for cotton announced annually by the Administrator: *Provided*, That in any case the amount of bond shall not be less than $5,000 nor more than $200,000. The amount of bond, exclusive of any amount which may be added in accordance with paragraph (c) of this section, to be furnished by a warehouseman who has not met the net assets requirement of § 101.5 (a) shall be calculated in the manner prescribed above in this section except that it shall be at least 12 percent of the total value above specified and in any case shall not be less than $10,000 nor more than $400,000.

(b) In case a warehouseman has applied for licenses to operate two or more warehouses in the same state and his total assets are subject to the liabilities of each warehouse, he may if he desires give a single bond meeting the requirements of the act and the regulations in this part to cover all his warehouses within the state. In such case all of his warehouses in the state shall be deemed to be one warehouse and the maximum number of bales that all of said warehouses will accommodate when stored in the manner customary to each of such warehouses shall be considered for the purpose of determining the amount of bond required under §§ 101.12 through 101.15.

(c) In case the Secretary, or his designated representative, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount fixed in accordance with para-

graph (a) of this section a further amount to meet such conditions.

5. Section 101.16 (f) would be amended to read:

§ 101.16 *Forms.* * * *

(f) Licensed receipts issued to cover linters shall be clearly and conspicuously marked "Linters".

6. Section 101.50 would be amended to read:

§ 101.50 *License fees.* There shall be charged and collected a fee of $20 for each original warehouseman's license, and a fee of $10 for each amended or reinstated warehouseman's license applied for by a warehouseman, and a fee of $6 for each license, or amendment thereto, issued to a sampler, classifier, and/or weigher.

7. Section 101.51 would be amended to read:

§ 101.51 *Warehouse inspection fee.* There shall be charged and collected for each original inspection of a warehouse under the act, when such inspection is made upon application of a warehouseman, a fee at the rate of $20 for each 1,000 bales of the cotton storage capacity of the warehouse, or fraction thereof, determined in accordance with § 101.5 but in no case less than $20 nor more than $500, and for each reinspection, applied for by the warehouseman, a fee based on the extent of the reinspection, proportioned to, but not greater than, that prescribed for the original inspection.

8. The first sentence in § 101.86 would be amended to read:

§ 101.86 *Bonds required.* Every person applying for a license, or licensed, under section 9 of the act, shall, as such, be subject to all portions of these regulations so far as they may relate to warehousemen. * * *

The proposed amendments would require all cotton warehouse facilities in the same city or town operated by a warehouseman holding a cotton warehouse license under the United States Warehouse Act to be covered by such license, except under specified conditions. The amendments would increase the amount of net assets and bond required of licensed warehousemen and the fees for inspection of warehouses, and for licenses of warehousemen, samplers, classifiers and weighers. The amendments would also modify the provisions of the regulations relating to suspension and revocation of warehouse licenses.

Any interested person who wishes to submit written data, views, or arguments concerning the proposed amendments, may do so by filing them with the Director of the Transportation and Warehousing Branch within 15 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 5th day of August 1952.

[SEAL] C. J. McCORMICK,
*Acting Secretary of Agriculture.*

[F. R. Doc. 52-8748; Filed, Aug. 7, 1952; 8:51 a. m.]

## [ 7 CFR Part 903 ]

[Docket No. AO-10 A-16]

### HANDLING OF MILK IN ST. LOUIS, MO., MILK MARKETING AREA

### PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Chase Hotel, St. Louis, Missouri, beginning at 9:30 a. m., c. d. t., August 11, 1952, for the purpose of receiving evidence with respect to emergency, and other economic conditions which relate to the handling of milk in the St. Louis, Missouri, marketing area and to the proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area (7 CFR 903 et seq.). These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the order, as amended, regulating the handling of milk in the St. Louis, Missouri, milk marketing area were proposed, as follows:

By Sanitary Milk Producers:

1. Delete that portion of § 903.51 (a) which reads: "*And provided further,* That the plus amount to be added for each delivery period from the effective date hereof through December 1951 shall be $1.80," and replace it with the following: "*And provided further,* That the plus amount to be added for each delivery period from September 1, 1952 through March 31, 1953 shall be $2.27."

By Dairy Branch, Production and Marketing Administration:

2. Make such changes as may be required to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the order now in effect may be procured from the Market Administrator, 4030 Chouteau Avenue, St. Louis 10, Missouri, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: August 4, 1952.

[SEAL] ROY W. LENNARTSON,
*Assistant Administrator.*

[F. R. Doc. 52-8732; Filed, Aug. 7, 1952; 8:48 a. m.]

## [ 7 CFR Part 958 ]

### IRISH POTATOES GROWN IN COLORADO

### NOTICE OF PROPOSED BUDGET AND RATE OF ASSESSMENT

Notice is hereby given that the Secretary of Agriculture is considering the approval of the budget and rate of assessment hereinafter set forth, which were recommended by the administrative committee for Area 2, established pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, issued under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 15 days following publication in the FEDERAL REGISTER. The proposals are as follows:

§ 958.211 *Budget of expenses and rate of assessment.* (a) The expenses necessary to be incurred by the administrative committee for Area No. 2, established pursuant to Marketing Agreement No. 97 and Order No. 58, to enable such committee to carry out its functions pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1953, will amount to $3,024.00;

(b) The rate of assessment to be paid by each handler who first ships potatoes shall be one-tenth of one cent ($0.001) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year; and

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 5th day of August 1952.

[SEAL] M. W. BAKER,
*Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.*

[F. R. Doc. 52-8769; Filed, Aug. 7, 1952; 8:54 a. m.]

## [ 7 CFR Part 958 ]

### IRISH POTATOES GROWN IN COLORADO

### PROPOSED BUDGET OF EXPENSES AND RATE OF ASSESSMENT

Notice is hereby given that the Secretary of Agriculture is considering the approval of the budget and rate of assessment, hereinafter set forth, which were recommended by the administrative committee for Area 3, established pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958), regulating the handling of Irish potatoes grown in the State of Colorado, issued under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto,

which are filed in triplicate with the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 15 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 958.212 *Budget of expenses and rate of assessment.* (1) The expenses necessary to be incurred by the administrative committee for Area No. 3, established pursuant to Marketing Agreement No. 97 and Order No. 58, to enable such committee to carry out its functions pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1953, will amount to $2,100.00.

(2) The rate of assessment to be paid by each handler who first ships potatoes shall be $0.00015 per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year; and

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 5th day of August 1952.

[SEAL] M. W. BAKER,
*Acting Director, Fruit and Vegetable Branch, Production and Marketing Administration.*

[F. R. Doc. 52-8768; Filed, Aug. 7, 1952; 8:54 a. m.]

# NOTICES

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

[Order 2548, Amdt. 5]

BUREAU OF RECLAMATION

DELEGATION OF AUTHORITY

A new section 6, reading as follows, is added to Order No. 2548 (14 F. R. 7598):

SEC. 6. *Reconveyance of donated lands.* Where real property or any interest therein has been donated to the United States for use in connection with a Federal reclamation project and the Commissioner of Reclamation, an Assistant Commissioner, or a Regional Director of the Bureau of Reclamation determines that such property or any portion thereof is not required for project purposes, such officials are severally authorized to reconvey in the name of the Secretary, without charge, such property or any part thereof to the donating grantor, or to the heirs, successors, or assigns of such grantor. The Commissioner of Reclamation may prescribe limitations upon, and procedures for, the exercise by subordinate officials of the Bureau of Reclamation of the authority granted in this section.

(43 U. S. C., 1946 ed., sec. 376; sec. 2, Reorganization Plan No. 3 of 1950, 15 F. R. 3174)

OSCAR L. CHAPMAN,
*Secretary of the Interior.*

AUGUST 1, 1952.

[F. R. Doc. 52-8724; Filed, Aug. 7, 1952; 8:46 a. m.]

## DEPARTMENT OF STATE

[Public Notice 114, Delegation of Authority No. 58]

TECHNICAL COOPERATION ADMINISTRATION

DELEGATION OF AUTHORITY TO EXECUTE PURCHASE AUTHORITIES AND OTHER DOCUMENTS

By virtue of the authority vested in me by Public Notice 113, effective November 6, 1951, I hereby delegate to the Director of Supply and Requirements Staff, Technical Cooperation Administration, and to any official legally designated to act for him during his absence or incapacity, and to the Chief of the Program Supply Control Section, Technical Cooperation Administration, authority to issue Purchase Authorities, Procurement Authorizations, and other documents authorizing the procurement of supplies, equipment, and services under the technical cooperation program and other programs administered by the Technical Cooperation Administration, United States Department of State, and to issue letters of commitment to suppliers, and enter into contracts with banks in the United States for the issuance of letters of credit to finance such procurement, and other documents required in implementation thereof.

The authority hereby delegated is subject to all other applicable provisions of law and to all restrictions, regulations, and directives which are now in effect or which may be issued hereafter governing the operation of such programs.

This delegation of authority shall be effective as of the date of its publication in the FEDERAL REGISTER.

STANLEY ANDREWS,
*Administrator,*
*Technical Cooperation Administration.*

JULY 31, 1952.

[F. R. Doc. 52-8725; Filed, Aug. 7, 1952; 8:45 a. m.]

## DEPARTMENT OF LABOR

### Division of Public Contracts

TEXTILE INDUSTRY; PREVAILING MINIMUM WAGE

NOTICE OF CHANGE OF HEARING DATE AND PLACE

On July 26, 1952, notice was published in the FEDERAL REGISTER that a public hearing would be held on September 4, 1952, at 10:00 a. m. in Room 1214, Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Administrator of the Wage and Hour and Public Contracts Divisions, or a representative designated to preside in his place, for the purpose of determining the prevailing minimum wages in the textile industry pursuant to the provisions of the Walsh-Healey Public Contracts Act (act of June 30, 1936, 49 Stat. 2036, 41 U. S. C. secs. 35-45).

Notice is hereby given: That the date of the proposed hearing is changed to September 3, 1952, and the place is changed to Conference Room A of the Inter-Departmental Auditorium, Constitution Avenue between Twelfth and Fourteenth Streets NW., Washington, D. C.

Signed at Washington, D. C., this 6th day of August 1952.

F. GRANVILLE GRIMES, Jr.,
*Acting Administrator, Wage and Hour and Public Contracts Divisions.*

[F. R. Doc. 52-8864; Filed, Aug. 7, 1952; 10:31 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 2755]

PAN AMERICAN-GRACE AIRWAYS, INC.

NOTICE OF ORAL ARGUMENT

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, of Pan American-Grace Airways, Inc., over its entire system.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding is assigned to be held on September 9, 1952 at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Constitution Avenue, between Fourteenth and Fifteenth Streets NW., Washington, D. C., before the Board.

Dated at Washington, D. C., August 5, 1952.

[SEAL] FRANCIS W. BROWN,
*Chief Examiner.*

[F. R. Doc. 52-8618; Filed, Aug. 7, 1952; 8:45 a. m.]

[Docket No. 5142]

BRANIFF AIRWAYS, INC.; FINAL MAIL RATES, DOMESTIC OPERATIONS

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith of Braniff Airways, Inc., in its domestic operations.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled proceeding, originally assigned for July 28, 1952, and thereafter postponed to August 12, 1952, is further postponed to a time and place to be assigned hereafter.

Dated at Washington, D. C., August 6, 1952.

[SEAL] FRANCIS W. BROWN,
*Chief Examiner.*

[F. R. Doc. 52-8619; Filed, Aug. 7, 1952; 8:45 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. G-1881]

NORTHERN NATURAL GAS CO.

NOTICE OF OPINION AND FINDINGS, AND ORDER

AUGUST 4, 1952.

Notice is hereby given that on July 30, 1952, the Federal Power Commission issued its opinion and order, entered July 28, 1952, dismissing proceedings in part in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 52-8729; Filed, Aug. 7, 1952; 8:47 a. m.]

## ECONOMIC STABILIZATION AGENCY

### Office of the Administrator

[Determination 116]

ANACONDA, MONTANA, CRITICAL DEFENSE HOUSING AREA

APPROVAL OF EXTENT OF RELAXATION OF CREDIT CONTROLS

SECTION 1. *Authority.* This action is taken pursuant to the authority conferred by the Housing and Rent Act of 1947, as amended (Pub. Law 129, 80th Cong., as amended by Pub. Laws 422 and 464, 80th Cong., Pub. Laws 31, 574 and 880, 81st Cong.; and Pub. Laws 8, 69 and 96, 82d Cong.); and more particularly section 204 (m) of Public Law 96; and the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong.; as amended by Pub. Law 96, 82d Cong.); and Executive Order 10161 of September 9th, 1950 and Executive Order 10276 of July 31, 1951; and as implemented by Economic Stabilization Agency Order No. 9 of July 31, 1951.

SEC. 2. *Determination.* In view of the joint determination and certification by the Secretary of Defense and the Director of Defense Mobilization, dated August 1, 1952, that the Anaconda, Montana, area (this area consists of all of Deer Lodge County, Montana) is a critical defense housing area, and in view of the defense housing program announced for the said area on January 29, 1952 by the Administrator of the Housing and Home Finance Agency, with the concurrence of the Board of Governors of the Federal Reserve System, it is hereby determined, after due consideration of relevant factors, that real estate construction credit controls have been relaxed in the Anaconda, Montana, critical defense housing area to the extent necessary to encourage construction of housing for defense workers and military personnel.

ROGER L. PUTNAM,
*Administrator.*

AUGUST 6, 1952.

[F. R. Doc. 52-8853; Filed, Aug. 7, 1952; 10:14 a. m.]

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[Determination 117]

PORTSMOUTH, NEW HAMPSHIRE-KITTERY, MAINE, CRITICAL DEFENSE HOUSING AREA

APPROVAL OF EXTENT OF RELAXATION OF CREDIT CONTROLS

SECTION 1. *Authority.* This action is taken pursuant to the authority conferred by the Housing and Rent Act of 1947, as amended (Pub. Law 129, 80th Cong., as amended by Pub. Laws 422 and 464, 80th Cong., Pub. Laws 31, 574 and 880, 81st Cong.; and Pub. Laws 8, 69 and 96, 82d Cong.); and more particularly section 204 (m) of Public Law 96; and the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong.; as amended by Pub. Law 96, 82d Cong.); and Executive Order 10161 of September 9, 1950, and Executive Order 10276 of July 31, 1951; and as implemented by Economic Stabilization Agency Order No. 9 of July 31, 1951.

SEC. 2. *Determination.* In view of the joint determination and certification by the Secretary of Defense and the Acting Director of Defense Mobilization, dated August 1, 1952, that the Portsmouth, New Hampshire-Kittery, Maine, area (this area consists of all of Strafford County, except the towns of Middleton and New Durham; the City of Portsmouth and the Towns of Atkinson, Brentwood, Danville, Deerfield, East Kingston, Epping, Exeter, Fremont, Greenland, Hampstead, Hampton, Hampton Falls, Kensington, Kingston, New Castle, Newfields, Newington, Newmarket, Newton, North Hampton, Northwood, Nottingham, Plaistow, Raymond, Rye, Sandown, Seabrook, South Hampton and Stratham in Rockingham County, in the State of New Hampshire; and the Towns of Berwick, Eliot, Kittery, North Berwick, South Berwick and York in York County, Maine) is a critical defense housing area, and in view of the defense housing program announced for the said area on June 26, 1952, by the Administrator of the Housing and Home Finance Agency, with the concurrence of the Board of Governors of the Federal Reserve System, it is hereby determined, after due consideration of relevant factors, that real estate construction credit controls have been relaxed in the Portsmouth, New Hampshire-Kittery, Maine, critical defense housing area to the extent necessary to encourage construction of housing for defense workers and military personnel.

ROGER L. PUTNAM,
*Administrator.*

AUGUST 6, 1952.

[F. R. Doc. 52-8854; Filed, Aug. 7, 1952; 10:14 a. m.]

### Office of Price Stabilization

[Region II, Redelegation of Authority No. 11, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION II, NEW YORK, N. Y.

REDELEGATION OF AUTHORITY TO ACT UNDER CPR 74

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization No. II, pursuant to Delegation of Authority No. 32 Revision 1 (17 F. R. 5917), this Revision 1 to Redelegation of Authority No. 11 is hereby issued.

1. Authority is hereby redelgated to the Directors of the District Offices of Price Stabilization located at New York City, Buffalo, Rochester, Syracuse and Albany, New York and Newark and Trenton, New Jersey, to take appropriate action under sections 12, 43, 44, 45, 46, 47, 49 and 60 of Ceiling Price Regulation 74.

This redelegation of authority shall take effect on August 5, 1952.

JAMES G. LYONS,
*Regional Director, Region II.*

AUGUST 5, 1952.

[F. R. Doc. 52-8755; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region II, Redelegation of Authority No. 26, Amdt. 1]

DIRECTORS OF DISTRICT OFFICES, REGION II, NEW YORK, N. Y.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 10 (e) AND 16 (c) CPR 98, AS AMENDED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. II, pursuant to Delegation of Authority No. 53, Amendment 1 (17 F. R. 5971), this Amendment 1 to Redelegation of Authority No. 26 is hereby issued.

Redelegation of Authority No. 26 is amended by adding new paragraphs 2 and 3 to read as follows:

2. *Authority under section 10 (e) of CPR 98 as amended.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at New York City, Buffalo, Rochester, Syracuse and Albany, New York and Newark and Trenton, New Jersey, to accept application for the establishment of ceiling markups made in accordance with the provisions of section 10 (e) of Ceiling Price Regulation 98, as amended, to request further information in connection with such applications, to approve, disapprove, or revise proposed ceiling markups, and to modify or revoke ceiling markups established under that section.

3. *Authority under section 16 (c) of CPR 98 as amended.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at New York City, Buffalo, Rochester, Syracuse and Albany, New York and Newark and Trenton, New Jersey, to accept applications for the establishment of ceiling warehouse prices made in accordance with the provisions

of section 16 (c) (2) of Ceiling Price Regulation 98, as amended, to request further information in connection with such application, to approve or disapprove such ceiling prices and to revoke ceiling prices established under section 16 (c).

This redelegation of authority shall take effect on August 5, 1952.

JAMES G. LYONS,
*Regional Director, Region II.*

AUGUST 5, 1952.

[F. R. Doc. 52-8753; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region II, Redelegation of Authority No. 35, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION II, NEW YORK, N. Y.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 6, 7, AND 8 OF CPR 23

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. II, pursuant to Delegation of Authority No. 63 Revision 1 (17 F. R. 5739), this Revision 1 to Redelegation of Authority No. 35 is hereby issued.

1. *Authority to act under sections 6, 7, and 8 of CPR 23.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at New York City, Buffalo, Rochester, Syracuse and Albany, New York, and Newark and Trenton, New Jersey, to take appropriate action under sections 6, 7, and 8 of CPR 23. All actions taken by field offices under sections 6, 7, and 8 of CPR 23, previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect on August 5, 1952.

JAMES G. LYONS,
*Regional Director, Region II.*

AUGUST 5, 1952.

[F. R. Doc. 52-8756; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region II, Redelegation of Authority No. 40]

DIRECTORS OF DISTRICT OFFICES, REGION II, NEW YORK, N. Y.

REDELEGATION OF AUTHORITY TO ACT UNDER CPR 26, REVISED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. II, pursuant to Delegation of Authority No. 70 (17 F. R. 5917), this redelegation of authority is hereby issued.

1. *Authority to act under sections 5 (c) (3), 7, 21 (c), and 22 of CPR 26, revised.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at New York City, Buffalo, Rochester, Syracuse and Albany, New York and Newark and Trenton, New Jersey, to act under sections 5 (c) (3), 7, 21 (c) and 22 of CPR 26, revised. All actions in respect to the foregoing sections of CPR 26 revised, taken by field offices previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect on August 5, 1952.

JAMES G. LYONS,
*Regional Director, Region II.*

AUGUST 5, 1952.

[F. R. Doc. 52-8754; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region III, Redelegation of Authority No. 33, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION III, PHILADELPHIA, PA.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 6, 7, AND 8 OF CPR 23

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. III, at Philadelphia, Pennsylvania, pursuant to Delegation of Authority No. 63, Revision 1 (17 F. R. 5739), this Revision 1 to Redelegation of Authortiy No. 33 is hereby issued.

Redelegation of Authority No. 33 is revised to read as follows:

1. Authority is hereby redelegated to each of the District Directors of the Office of Price Stabilization in Region III to take appropriate action under sections 6, 7, and 8 of CPR 23. All actions taken by field offices under sections 6, 7, and 8 of CPR 23, previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect as of July 8, 1952.

JOSEPH J. MCBRYAN,
*Director of Regional Office No. III.*

AUGUST 5, 1952.

[F. R. Doc. 52-8757; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region V, Redelegation of Authority No. 24, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION V, ATLANTA, GA.

REDELEGATION OF AUTHORITY TO ACT ON APPLICATIONS FOR CEILING PRICES PURSUANT TE SECTIONS 36 AND 53 OF CPR 117, REVISION 1, AND TO PRESCRIBE UNIFORM MAXIMUM CASE AND CONTAINER CHARGES PURSUANT TO SECTION 71 OF CPR 117, REVISION 1

By virtue of the authority vested in me as Director of the Regional Office of the Office of Price Stabilization, Region V, Atlanta, Georgia, pursuant to Delegation of Authority 52, Revision 1 (17 F. R. 5618), this revised redelegation of authority is hereby issued.

Authority is hereby redelegated to the District Directors of the Office of Price Stabilization, Region V, with offices located in Birmingham and Montgomery in Alabama, Jacksonville and Miami in Florida, Atlanta and Savannah in Georgia, Jackson in Mississippi, Columbia in South Carolina and Memphis and Nashville in Tennessee, to act as follows:

1. To act, by order, on all applications under the provisions of sections 36 and 53 of Ceiling Price Regulation 117, Revision 1.

2. To issue orders, pursuant to section 71 of CPR 117, Revision 1, establishing uniform maximum case and container charges for any seller or group of sellers located in their respective jurisdictions.

This revised redelegation of authority shall take effect as of July 1, 1952.

GEORGE D. PATTERSON, Jr.,
*Director of Regional Office V.*

AUGUST 5, 1952.

[F. R. Doc. 52-8758; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region V, Redelegation of Authority No. 33, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION V, ATLANTA, GA.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 5 AND 6 OF CPR 31

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region V, Atlanta, Georgia, pursuant to Delegation of Authority 66, Revision 1 (17 F. R. 5437) this Revision 1 of Redelegation of Authority 33 is hereby issued.

1. *Authority to act under sections 5 and 6 of CPR 31.* Authority is hereby redelegated to the District Directors of the Office of Price Stabilization, Region V, with offices located in Birmingham and Montgomery in Alabama, Jacksonville and Miami in Florida, Atlanta and Savannah in Georgia, Jackson in Mississippi, Columbia in South Carolina, and Memphis and Nashville in Tennessee, to receive and examine reports filed under the provisions of sections 5 and 6 of Ceiling Price Regulations 31; to ascertain whether such reports conform to requirements of Ceiling Price Regulation 31; and to take all steps necessary to assure that such reports are corrected in accordance with the provisions of sections 5 and 6 of Ceiling Price Regulation 31.

This revised redelegation of authority shall take effect as of July 1, 1952.

GEORGE D. PATTERSON, Jr.,
*Director of Regional Office V.*

AUGUST 5, 1952.

[F. R. Doc. 52-8759; Filed, Aug. 5, 1952; 4:40 p. m.]

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[Region V, Redelegation of Authority No. 38]

DIRECTORS OF DISTRICT OFFICES, REGION V, ATLANTA, GA.

REDELEGATION OF AUTHORITY TO ACT UNDER CPR 101, AS AMENDED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region V, Atlanta, Georgia, pursuant to Delegation of Authority 38, as amended (16 F. R. 12299, 17 F. R. 1784, 5045), this redelegation of authority is hereby issued.

Authority, as indicated in the paragraph immediately following, is hereby

redelegated to the Directors of the District Offices of the Office of Price Stabilization, Region V, located in Birmingham and Montgomery in Alabama, Jacksonville and Miami in Florida, Atlanta and Savannah in Georgia, Jackson in Mississippi, Columbia in South Carolina, and Memphis and Nashville in Tennessee:

1. To act under section 4 (d), 7, 12, 21 (a), 21 (b), 42 (a), 42 (b), 46 (c) and 49 (a) of CPR 101, as amended.

This redelegation of authority shall take effect as of July 1, 1952.

GEORGE D. PATTERSON, Jr.,
*Director of Regional Office V.*

AUGUST 5, 1952.

[F. R. Doc. 52-8760; Filed, Aug. 5, 1952; 4:41 p. m.]

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[Region V, Redelegation of Authority No. 39]

DIRECTORS OF DISTRICT OFFICES REGION V, ATLANTA, GA.

REDELEGATION OF AUTHORITY TO ACT UNDER CPR 24, AS AMENDED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region V, Atlanta, Georgia, pursuant to Delegation of Authority 68 (17 F. R. 4961), this redelegation of authority is hereby issued.

1. Authority is hereby redelegated to the Directors of the District Offices of the Office of Price Stabilization, Region V, located in Birmingham and Montgomery in the State of Alabama, Jacksonville and Miami in the State of Florida, Atlanta and Savannah in the State of Georgia, Jackson in the State of Mississippi, Columbia in the State of South Carolina, and Memphis and Nashville in the State of Tennessee, to act under sections 15, 21 (a), 42 (a), 42 (b), 46 (c), 49 A (b), 49 A (c), 49 B (a), 49 B (b), and 50 (u) of CPR 24, as amended.

This redelegation of authority shall take effect as of July 1, 1952.

GEORGE D. PATTERSON, Jr.,
*Director of Regional Office V.*

AUGUST 5, 1952.

[F. R. Doc. 52-8761; Filed, Aug. 5, 1952; 4:41 p. m.]

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[Region V, Redelegation of Authority No. 40]

DIRECTORS OF DISTRICT OFFICES, REGION V, ATLANTA, GA.

REDELEGATION OF AUTHORITY TO ACT UNDER SUPPLEMENTARY REGULATION 6 TO CPR 7

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region V, Atlanta, Georgia, pursuant to Delegation of Authority 69 (17 F. R. 5679), this redelegation of authority is hereby issued.

1. Authority is hereby redelegated to the Directors of the District Offices of the Office of Price Stabilization, Region V, located in Birmingham and Montgomery in the State of Alabama, Jacksonville and Miami in the State of Florida, Atlanta and Savannah in the State of Georgia, Jackson in the State of Mississippi, Columbia in the State of South Carolina, and Memphis and Nashville in the State of Tennessee, to act under Supplementary Regulation 6 to Ceiling Price Regulation 7.

This redelegation of authority shall take effect as of July 1, 1952.

GEORGE D. PATTERSON, Jr.,
*Director of Regional Office V.*

AUGUST 5, 1952.

[F. R. Doc. 52-8762; Filed, Aug. 5, 1952; 4:41 p. m.]

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[Region VII, Redelegation of Authority No. 34, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION VII, CHICAGO, ILL.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 6, 7, AND 8 OF CPR 23

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. VII, pursuant to Delegation of Authority No. 63, Revision 1 (17 F. R. 5739), this Revision 1 to Redelegation of Authority No. 34 is hereby issued.

Redelegation of Authority No. 34 is revised to read as follows:

1. *Authority to act under sections 6, 7, and 8 of CPR 23.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at Chicago, Peoria and Springfield, Illinois, Green Bay and Milwaukee, Wisconsin, and Indianapolis, Indiana, to take appropriate action under sections 6, 7, and 8 of CPR 23. All actions taken by field offices under sections 6, 7, and 8 of CPR 23, previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect on August 5, 1952.

HYMAN RASKIN,
*Director of Regional Office No. VII.*

AUGUST 5, 1952.

[F. R. Doc. 52-8763; Filed, Aug. 5, 1952; 4:41 p. m.]

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[Region VII, Redelegation of Authority No. 36, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION VII, CHICAGO, ILL.

AUTHORITY TO ACT UNDER SECTIONS 5 AND 6 OF CPR 31

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. VII, pursuant to Delegation of Authority No. 66, Revision 1 (17 F. R. 5437), this revised redelegation of authority is hereby issued.

1. *Authority to act under sections 5 and 6 of CPR 31.* Authority is hereby redelegated to the Directors of the District Offices of Price Stabilization located at Chicago, Peoria and Springfield, Illinois, Green Bay and Milwaukee, Wisconsin, and Indianapolis, Indiana, to receive and examine reports filed under the provisions of sections 5 and 6 of Ceiling Price Regulation 31; to ascertain whether such reports conform to requirements of Ceiling Price Regulation 31; and to take all steps necessary to assure that such reports are corrected in accordance with the provisions of sections 5 and 6 of Ceiling Price Regulation 31.

This redelegation of authority shall take effect on August 5, 1952.

HYMAN RASKIN,
*Director of Regional Office No. VII.*

AUGUST 5, 1952.

[F. R. Doc. 52-8764; Filed, Aug. 5, 1952; 4:42 p. m.]

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[Region VIII, Redelegation of Authority No. 24, Amendment 1]

DIRECTORS OF DISTRICT OFFICES, REGION VIII, MINNEAPOLIS, MINN.

REDELEGATION OF AUTHORITY TO ACT UNDER SECTIONS 10 (e) AND (c) CPR 98, AS AMENDED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region VIII, pursuant to Amendment 1 to Delegation of Authority 53, dated June 30, 1952 (17 F. R. 5971), this Amendment 1 to Redelegation of Authority No. 24 is hereby issued.

Redelgation of Authority No. 24 is amended by redesignating the present paragraph 2 as paragraph 4 and adding new paragraphs 2 and 3 to read as follows:

2. *Authority under section 10 (e) of CPR 98, as amended.* Authority is hereby redelegated to the District Directors, Office of Price Stabilization, Region VIII, to accept application for the establishment of ceiling markups made in accordance with the provisions of section 10 (e) of Ceiling Price Regulation 98, as amended, to request further information in connection with such applications, to approve, disapprove or revise proposed ceiling markups, and to modify or revoke ceiling markups established under that section.

3. *Authority under section 16 (c) of CPR 98, as amended.* Authority is hereby redelegated to the District Directors, Office of Price Stabilization, Region VIII, to accept applications for the establishment of ceiling warehouse prices made in accordance with the provisions of section 16 (c) (2) of Ceiling Price Regulation 98, as amended, to request further information in connection with such application, to approve or disapprove such ceiling prices and to revoke ceiling prices established under section 16 (c).

This Amendment 1 to Redelegation of Authority No. 24 shall take effect as of June 30, 1952.

JOSEPH ROBBIE, Jr.,
*Regional Director, Region VIII.*

AUGUST 5, 1952.

[F. R. Doc. 52-8765; Filed, Aug. 5, 1952; 4:42 p. m.]

[Region X, Redelegation of Authority No. 37]

DIRECTORS OF DISTRICT OFFICES, REGION X, DALLAS, TEX.

REDELEGATION OF AUTHORITY TO ACT UNDER CPR 26, REVISED

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, No. X, Dallas, Texas, pursuant to Delegation of Authority No. 70 (17 F. R. 5917), this redelegation of authority is hereby issued.

1. Authority is hereby redelegated to the Directors of the Little Rock, Arkansas; Tulsa, Oklahoma; Oklahoma City, Oklahoma; Shreveport, Louisiana; New Orleans, Louisiana; Lubbock, Texas; Fort Worth, Texas; Dallas, Texas; Houston, Texas; and San Antonio, Texas, District Offices of Price Stabilization to act under sections 5 (c) (3), 7, 21 (c) and 22 of CPR 26, Revised. All actions in respect to the foregoing sections of CPR 26, Revised, taken by field offices previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect as of July 14, 1952.

ALFRED L. SEELYE,
*Director of Regional Office No. X.*

AUGUST 5, 1952.

[F. R. Doc. 52-8766; Filed, Aug. 5, 1952; 4:42 p. m.]

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[Region XI, Redelegation of Authority No. 40, Revision 1]

DIRECTORS OF DISTRICT OFFICES, REGION XI, DENVER, COLO.

REDELGATION OF AUTHORITY TO ACT UNDER SECTIONS 6, 7, AND 8 OF CPR 23

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region XI, pursuant to Delegation of Authority 63, Revision 1 (17 F. R. 5739), this Revision 1 to Redelegation of Authority No. 40 is hereby issued.

1. *Authority to act under sections 6, 7 and 8 of CPR 23.* Authority is hereby redelegated to each of the Directors of the District Offices of the Office of Price Stabilization in Region XI to take appropriate action under sections 6, 7 and 8 of CPR 23. All actions taken by district offices under sections 6, 7 and 8 of CPR 23, previous to this authority, are hereby confirmed and validated.

This redelegation of authority shall take effect as of July 10, 1952.

DELBERT M. DRAPER,
*Regional Director, Region XI.*

AUGUST 5, 1952.

[F. R. Doc. 52-8767; Filed, Aug. 5, 1952; 4:42 p. m.]

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[Ceiling Price Regulation 83, Section 2, Special Order 16, Amdt. 6]

KAISER-FRAZER CORP.

BASIC PRICES AND CHARGES FOR NEW PASSENGER AUTOMOBILES

*Statement of considerations.* Special Order 16 established a schedule of prices and charges pursuant to section 2 of Ceiling Price Regulation 83 for sellers of new passenger automobiles and factory installed extra equipment manufactured by the Kaiser-Frazer Corporation. The Kaiser-Frazer Corporation has now increased the price of its Henry J and Allstate automobiles to its dealers, the total prices being less than its previously established ceiling prices. This order is accordingly issued to establish sellers' prices and charges which will reflect increased costs to dealers and mark-ups thereon, and is applicable to all automobiles which have been sold by Kaiser-Frazer Corporation at the increased prices.

*Amendatory provisions.* For the reasons set forth in the Statement of Considerations and pursuant to section 2 of Ceiling Price Regulation 83, this amendment to Special Order 16 is hereby issued.

1. The list of basic prices for automobiles manufactured by Kaiser-Frazer Corporation in paragraph one is amended to read as follows:

HENRY J PASSENGER AUTOMOBILES

(Sold by Kaiser-Frazer at prices in effect prior to July 18, 1952)

| | |
|---|---|
| Henry J Vagabond | $1,238.63 |
| Henry J Vagabond-DeLuxe | 1,373.44 |
| Henry J Corsair | 1,331.57 |
| Henry J Corsair-DeLuxe | 1,466.38 |

HENRY J PASSENGER AUTOMOBILES

(Sold by Kaiser-Frazer at prices in effect subsequent to July 18, 1952)

| | |
|---|---|
| Henry J Vagabond | $1,293.18 |
| Henry J Vagabond-DeLuxe | 1,427.99 |
| Henry J Corsair | 1,386.12 |
| Henry J Corsair-DeLuxe | 1,520.93 |

ALLSTATE PASSENGER AUTOMOBILES

(Sold by Kaiser-Frazer at prices in effect prior to July 18, 1952)

| | |
|---|---|
| Allstate—4-cylinder (with circular tail lamps) | $1,238.63 |
| Allstate—6-cylinder (with circular tail lamps) | 1,373.44 |
| Allstate—4-cylinder (with tail lamps in rear fender fins) | 1,331.57 |
| Allstate—6-cylinder (with tail lamps in rear fender fins) | 1,466.38 |

ALLSTATE PASSENGER AUTOMOBILES

(Sold by Kaiser-Frazer at prices in effect subsequent to July 18, 1952)

| | |
|---|---|
| Allstate—4-cylinder (with circular tail lamps) | $1,293.18 |
| Allstate—6-cylinder (with circular tail lamps) | 1,427.99 |
| Allstate—4-cylinder (with tail lamps in rear fender fins) | 1,386.12 |
| Allstate—6-cylinder (with tail lamps in rear fender fins) | 1,520.93 |

*Effective date.* This amendment to Special Order 16 shall become effective August 7, 1952.

ELLIS ARNALL,
*Director of Price Stabilization.*

AUGUST 7, 1952.

[F. R. Doc. 52-8871; Filed, Aug. 7, 1952; 11:56 a. m.]

## INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27277]

SULPHURIC ACID FROM EXUM AND BIRMINGHAM, ALA., TO TUPELO, MISS.

APPLICATION FOR RELIEF

AUGUST 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for The Alabama Great Southern Railroad Company and other carriers.

Commodities involved: Sulphuric acid, in tank-car loads.

From: Birmingham, Ala., and points grouped therewith, also Exum, Ala.

To: Tupelo, Miss.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1200, Supp. 53.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
*Secretary.*

[F. R. Doc. 52-8736; Filed, Aug. 7, 1952; 8:48 a. m.]

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[4th Sec. Application 27278]

CANS FROM DADE CITY, FLA., TO GEORGIA

APPLICATION FOR RELIEF

AUGUST 5, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 519.

Commodities involved: Cans, iron, steel, or tin, carloads.

From: Dade City, Fla.

To: Points in Georgia.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 519, Supp. 282.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing; upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
*Secretary.*

[F. R. Doc. 52-8737; Filed, Aug. 7, 1952; 8:49 a. m.]